2026:AHC:224734-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 24753 of 2026

Ashutosh Tripathi

…..Petitioner(s)

Versus

Union of India and 5 others

…..Respondent(s)

Counsel for Petitioner(s)	:	Kranti Kiran Pandey
Counsel for Respondent(s)	:	A.S.G.I., G.A., Manoj Kumar Singh, Sushant

Court No. - 48

HON'BLE CHANDRA DHARI SINGH, J.
HON'BLE TARUN SAXENA, J.

Hon’ble Chandra Dhari Singh, J. (ORAL)

1. By way of the instant writ petition, filed under Article 226 of the Constitution of India, the petitioner seeks for issuance of a writ, order or direction in the nature of certiorari, quashing the impugned summons dated 18.09.2026, bearing Summon No. PMLA/SUMMON/LKZO/2026/5565, issued by the Directorate of Enforcement under Section 50(2) and 50(3) PMLA. The petitioner further seeks for issuance of a writ, order or direction in the nature of mandamus restraining the respondents from taking any coercive action against the petitioner pursuant the aforesaid summons dated 18.09.2026.

2. Learned counsel appearing on behalf of the petitioner submitted that a first information report dated 17.10.2025, was lodged at Police Station Karwi Kotwali Nagar, District Chitrakoot for the offence under Sections 319(2), 318(4), 338, 336(3), 340(2), 316(5) and 61(2) of BNS in connection with alleged scam related to treasury office, Karwi/Chitrakoot. As per the F.I.R., the allegation against the accused persons are for irregularising the fund transactions relating to pensioners/family pensioners in the Treasury Department Karwi, Chitrakoot. In the F.I.R., it is stated that an audit team inspected the treasury record from 06.10.2025 to 10.10.2025 and found certain irregularities in the treasury fund. The petitioner was not named in the F.I.R. dated 17.10.2025. During investigation, the name of the petitioner was specifically came into the picture with an allegation that an amount of approximately Rs. 17,00,000/- was credited into his bank account. It is submitted that the petitioner neither operated the alleged treasury transaction nor participated in the preparation of any forged document, electronic record or fraudulent transaction.

3. Learned counsel for the petitioner next submitted that the petitioner has challenged the aforesaid criminal proceedings before this High Court and was granted interim protection vide order dated 23.02.2026 passed in Criminal Misc. Writ Petition No.

26009 of 2025 in connection with Criminal Misc. Writ Petition No. 1448 of 2026. Subsequently, the investigating agency has submitted the charge-sheet in the predicate case. The petitioner was also granted an anticipatory bail vide order dated 02.09.2026 in Criminal Misc. Anticipatory Bail Application U/s 482 BNSS No. 8046 of 2026.

4. Learned counsel appearing on behalf of the petitioner further submitted that subsequently, the petitioner has received impugned summons on 25.09.2026 issued by the Directorate of Enforcement (hereinafter referred to as "ED") under Sections 50(2) and 3 PMLA and also asked for certain documents. The respondents/ED did not disclose the petitioner precise scheduled offence, alleged proceeds of crime and specific transactions forming the basis of PMLA proceedings.

5. It is next submitted that the petitioner is completely non-connected with the alleged scam. The ED, only for the purpose of harassing the petitioner, has issued the impugned summons and called him to the Zonal Office, Lucknow.

6. It is submitted that the action of the respondent authority is arbitrary *mala-fide* and contrary to the established legal principles. Learned counsel appearing on behalf of the petitioner next submitted that *prima-facie* no criminal offence against the

petitioner is made out and the present prosecution has been instituted with *mala-fide* intention for the purpose of harassment. The impugned summons does not disclose the specific role attributed to the petitioner. The impugned summons states that the petitioner's attendance is necessary for giving evidence and for production of records but does not, on its face, disclose the precise scheduled offence relied upon; the precise property alleged to constitute proceeds of crime.

7. Learned counsel next submitted that in view of the aforesaid facts, the impugned summons may be quashed by this Court while allowing the instant writ petition.

8. *Per-contra*, learned counsel appearing on behalf of the respondents vehemently opposed the writ petition and submitted that the instant writ petition has been filed at a premature stage. The ED has only issued a show cause / summons to the petitioner to provide certain information/documents related to the proceeds of crime. It is further submitted that it is a settled law that a writ petition seeking quashing or stay of summons is not maintainable.

9. Learned counsel appearing on behalf of the ED next submitted that therefore the instant writ petition is liable to be dismissed on maintainability itself.

10. Heard learned counsel appearing on behalf of the petitioner, learned A.G.A. for the State of U.P., learned counsel appearing on behalf of the Directorate of Enforcement, perused the contents of the writ petition and material available on record.

11. As a general principle on entertaining a writ petition against a "show-cause notice", relying on a series of earlier decisions, in **Union of India vs. Kunisetty Satyanarayana**[1], the Supreme Court has held that the discretionary writ jurisdiction of the High Court under Article 226 of the Constitution of India should not ordinarily be exercised by quashing a show-cause notice unless it is found to have been issued by a person having no jurisdiction to do so, since a mere show-cause notice does not give rise to any cause of action. The Supreme Court has also held that mere issuance of a show-cause notice does not amount to an adverse order affecting the rights of any party. In this view of the matter, it has been held that since a writ petition lies when some right of a party is infringed, even entertaining a writ petition against a show-cause notice may be premature. To be clear, **Kunisetty Satyanarayana** (Supra) was a case which was arose from a service dispute and not from any criminal proceedings.

1 (2006) 12 SCC 28

12. In **Special Director vs. Mohd. Ghulam Ghouse**[2], which was a matter under the Foreign Exchange Regulation Act, 1973 and the Foreign Exchange Management Act 1999, the Supreme Court had this to say:

> *"3. According to the appellants, the writ petition is thoroughly misconceived as it challenges a show-cause notice and in any event the final relief as sought for by Respondent 1-writ petitioner in relation to the show-cause notice should not have been granted by an interim order of the nature passed by withholding any further action in this regard. It was pointed out that Respondent 1 is responsible for financial irregularities involving nearly Rs 270 crores and documents have been forged, accounts have been manipulated; and in any event Respondent 1 was free to canvass all the points that were taken in the writ petition before the authority issuing the notice. Instead of doing that, he rushed to the High Court and unfortunately the High Court not only entertained the writ application but also granted interim relief which was in effect allowing the writ petition even before it was heard on merits. The final relief sought for itself, in substance, was granted by the interim order. ..... The High Court should have thrown out the writ petition at the threshold.*
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> * * * * *
>
> *"5 [Ed. : Para 5 corrected vide Corrigendum No. F.3/Ed.B.J./40/2004 dated 2-4-2004] . This Court in a large number of cases has deprecated the practice of the High Courts entertaining writ petitions questioning legality of the show-cause notices stalling enquiries as proposed and retarding investigative process to find actual facts with the participation and in the presence of the parties. Unless the High Court is satisfied that the show cause notice was totally non est in the eye of the law for absolute want of jurisdiction of the authority to even investigate into facts, writ petitions should not be entertained for the mere asking and as a matter of routine, and the writ petitioner should invariably be directed to respond to the show cause notice and take all stands highlighted in the writ petition. Whether the show cause notice was founded on any legal premises, is a jurisdictional issue which can even be urged by the recipient of the notice and such issues also can be adjudicated by the authority issuing the very notice initially, before the aggrieved could approach the court. Further, when the court passes an interim order it should be careful to see that the statutory functionaries specially and specifically constituted for the purpose are not denuded of powers and authority to initially decide*

2 (2004) 3 SCC 440

> *the matter and ensure that ultimate relief which may or may not be finally granted in the writ petition is not accorded to the writ petitioner even at the threshold by the interim protection granted."*

13. The above position has also been echoed in order dated 20.11.2014 made by the Supreme Court in **Kirit Shrimankar vs. Union of India**[3], where the petitioner had filed a writ petition under Article 32 of the Constitution of India expressing apprehension that he would be arrested. The apprehension arose from alleged threats of arrest extended by some officers in proceedings under the Customs Act, 1963 during a search conducted at the residential premises of the petitioner's ex-wife. In those circumstances, the Supreme Court found that the writ petition was premature and was based on flimsy averments, observing that such averments could not form the basis for a *prima-facie* apprehension of arrest. The writ petition in that case was thereupon withdrawn, with the Supreme Court observing as follows :

> *"3. ..... we are convinced that the petitioners can be permitted to withdraw these writ petitions with the right to work out their remedy as and when any appropriate situation arises for working out such remedy. ....."*

14. In the context of summons issued by the ED under section 50 of the PMLA, Delhi High Court in the case of **Virbhadra Singh vs. Enforcement Directorate & Ors.**[4], has observed as follows :

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3 (2018) 12 SCC 651
4 2017 SCC OnLine Del 8930

> *"143. … The powers conferred on the enforcement officers for purposes of complete and effective investigation include the power to summon and examine "any person". The law declares that every such person who is summoned is bound to state the truth. At the time of such investigative process, the person summoned is not an accused. Mere registration of ECIR does not make a person an accused. He may eventually turn out to be an accused upon being arrested or upon being prosecuted. No person is entitled in law to evade the command of the summons issued under Section 50 PMLA on the ground that there is a possibility that he may be prosecuted in the future. The law declared in Nandini Satpathy (supra) concerning the statements under Section 161 Cr.P.C. recorded by the police, and in other pronouncements concerning similar powers of officers of the Customs Department, as noted earlier, provide a complete answer to the apprehensions that have been expressed."*

Arising from the foregoing perspective, the court held that there was nothing from which it could be inferred that the issuance of summons by the ED in exercise of its statutory powers of investigation into the ECIR, had caused or would have the effect of causing, any prejudice to the petitioners in those cases; and the petitions were accordingly dismissed as being devoid of substance.

15. On point of fact, it is a common ground that in the present case, what the petitioner is aggrieved of is essentially the potential threat of being arrested on the basis of the summons received from the ED; for which reason he seeks quashing of the summons.

16. In this regard, a brief reference to the celebrated decision of the Supreme Court in the case of **State of Haryana vs. Bhajan Lal**[5], would be useful :-

> *"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*
>
> > *(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
> >
> > *(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
> >
> > *(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
> >
> > *(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*
> >
> > *(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

5 1992 Supp (1) SCC 335

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

As observed by the Supreme Court, the above categories of cases are only illustrative and not exhaustive.

17. It is also noteworthy that the impugned summons have been issued under section 50 of the PMLA, which provision therefore requires a closer look and it reads as under :-

*"**50. Powers of authorities regarding summons, production of documents and to give evidence, etc.**—(1) The Director shall, for the purposes of Section 13, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:—*

(a) discovery and inspection;

(b) enforcing the attendance of any person, including any officer of a reporting entity, and examining him on oath;

(c) compelling the production of records;

(d) receiving evidence on affidavits;

(e) issuing commissions for examination of witnesses and documents; and

(f) any other matter which may be prescribed.

(2) The Director, Additional Director, Joint Director, Deputy Director or Assistant Director shall have power to summon any person whose attendance he considers necessary whether to give evidence or to produce any records during the course of any investigation or proceeding under this Act.

(3) All the persons so summoned shall be bound to attend in person or through authorised agents, as such officer may direct, and shall be bound to state the truth upon any subject respecting which they are examined or make statements, and produce such documents as may be required.

(4) Every proceeding under sub-sections (2) and (3) shall be deemed to be a judicial proceeding within the meaning of Section 193 and Section 228 of the Indian Penal Code (45 of 1860).

(5) Subject to any rules made in this behalf by the Central Government, any officer referred to in sub-section (2) may impound and retain in his custody for such period, as he thinks fit, any records produced before him in any proceedings under this Act:

Provided that an Assistant Director or a Deputy Director shall not

(a) impound any records without recording his reasons for so doing; or

(b) retain in his custody any such records for a period exceeding three months, without obtaining the previous approval of the Joint Director."

18. To wit, section 50 of the PMLA confers upon specified officers of the ED, the powers vested in a civil court trying a suit; including the power to enforce the attendance of any person for recording statements on oath, with a mandate that any person so summonsed shall be bound to attend, to answer and make statements truthfully; to compel discovery, inspection and production of documents and records; and to impound and retain records, by giving reasons in writing.

19. To be sure, the power to arrest is conspicuously absent in Section 50 of the PMLA.

20. Though Section 19 of the PMLA empowers designated officers of the ED to arrest any person, subject to satisfying the conditions mentioned in that provision, it is clear that the power to arrest does not reside in section 50 nor does it arise as a natural corollary of summons issued under section 50.

21. For completeness, Section 19 of the PMLA may also be extracted here:

> *19. Power to arrest.—*
>
> *(1) If the Director, Deputy Director, Assistant Director or any other officer authorised in this behalf by the Central Government by general or special order, has on the basis of material in his possession, reason to believe (the reason for such belief to be recorded in writing) that any person has been guilty of an offence punishable under this Act, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.*
>
> *(2) .....*
>
> *(3) Every person arrested under sub-section*
>
> *(1) shall, within twenty-four hours, be taken to a Special Court or Judicial Magistrate or a Metropolitan Magistrate, as the case may be, having jurisdiction: Provided that .....*

22. The power under section 50 of the PMLA to issue summons to a person and to require the production of documents and record statements, which is akin to the powers of a civil court, is different and distinct from the power under section 19 to arrest a person. These are two separate and distinct provisions. The exercise of the powers under one, cannot be restrained on the apprehension that it could lead to the exercise of powers under

the other. If that is permitted, any and every person summonsed under section 50 of the PMLA, to produce documents or give a statement on oath, could resist such summons expressing mere apprehension that he may face arrest at the hands of the ED, in exercise of the powers under section 19 of the PMLA. Such a position would be antithetic to the statutory scheme.

23. Based on the provisions and precedents referred-to above; on a bare perusal of section 50 of the PMLA under which summons have been issued to the petitioner; and the fact that the petitioner is not an accused in the proceeding under the PMLA, this court is not persuaded to agree with the petitioner‟s apprehension that he may be subject to coercive measures.

24. For the aforesaid reasons, this Court does not deem it necessary to entertain the present writ petition seeking quashing of the impugned summons.

25. The writ petition is accordingly ***dismissed***.

(Tarun Saxena,J.) (Chandra Dhari Singh,J.)

October 27, 2026
Saurabh

Digitally signed by :-
SAURABH KUMAR
High Court of Judicature at Allahabad