

**IN THE HIGH COURT FOR THE STATE OF TELANGANA ::
HYDERABAD**

*** * ***

WRIT PETITION No.6550 of 2026

Between:

Dr. Pachipala Namratha @ Athaluri Namratha,
W/o. Sri Venkata Krishna Prasad.

Petitioner

VERSUS

The Union of India,
Ministry of Finance,
Department of Revenue,
Rep. by its Principal Secretary,
Secretariat Buildings, New Delhi and another.

Respondents

ORDER PRONOUNCED ON: 21.04.2026

**THE HON'BLE SRI JUSTICE P.SAM KOSHY
AND**

THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? : Yes
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : Yes
3. Whether His Lordship wishes to
see the fair copy of the Judgment? : **Yes**

P.SAM KOSHY, J

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! Counsel for petitioners : Mr. Naga Muthu, learned Senior Counsel
appearing on behalf of Mr. Y.Soma Srinath
Reddy.

^Counsel for respondent : Mr. Dominic Fernandes, learned Senior
Standing Counsel for ED.

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> HEAD NOTE:

? Cases referred

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| 1) (2025) 2 Supreme Court Cases 248 | 9) [2025] INSC 272 |
| 2) (2024) 7 Supreme Court Cases 576 | 10) 2023 SCC Online 934 |
| 3) (2023) 12 Supreme Court Cases 1 | 11) CWP.No.13600 of 2025 |
| 4) (2024) 8 Supreme Court Cases 254 | |
| 5) (2023) 15 Supreme Court Cases 91 | |
| 6) (2014) 8 Supreme Court Cases 273 | |
| 7) [CRWP Nos.8667 of 2025 (O&M) and 8750 of 2025 (O&M)] | |
| 8) CRMP.No.2506 of 2025 - [2025 CGHC 52079] | |

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Ministry of Finance,
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Rep. by its Principal Secretary,
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ORDER: *(per the Hon'ble Sri Justice P.Sam Koshy)*

Heard Mr. Naga Muthu, learned Senior Counsel appearing on behalf of Mr. Y.Soma Srinath Reddy, learned counsel for the petitioner; and Mr. Dominic Fernandes, learned Senior Standing Counsel for ED appearing on behalf of the respondents.

2. The instant writ petition under Article 226 of the Constitution of India has been filed by the petitioner seeking the following relief/s, viz.,

“.....to issue a writ, order or direction, more particularly

- 1. The writ of certiorari, to call for records and set aside the arrest of the petitioner dated 12th February, 2026 at the hands of the respondent No.2 by declaring the arrest of the petitioner to be arbitrary and wholly non-est, illegal, unconstitutional, more particularly in violation of Section 19 of the Prevention of Money Laundering Act, 2002, and in violation of Articles 14, 21 and 22 of the Constitution of India, and thereby quash the entire proceedings relating thereto including the arrest order dated 12th February, 2026 passed by respondent No.2 and all subsequent against the petitioner herein.*
- 2. Further, quash and set aside the orders dated 12th February, 2026 and all further orders of remand, passed by the Special Sessions Judge for Prevention of Money Laundering Act, Nampally, Hyderabad.*
- 3. Direct forthwith release of the petitioner from custody as her further incarceration would be anathema to law and gravely detrimental to the cause of justice;*
- 4. Issue this any other writ(s) order(s), or direction(s), that the Hon'ble Court may deem fit and proper in the circumstances of the case in the interest of petitioner.”*

3. The facts of the case are that the petitioner is a medical practitioner (fertility specialist) presently lodged at Chanchalguda Central Jail. The matter is stated to have originated from a complaint lodged by one Sonia at Gopalapuram Police Station on 25.07.2025, leading to registration of FIR No.147 of 2025 under Section 61(2), 316, 318, 335, 336 and 340 of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') and the petitioner was arrested by the police personnel on 27.07.2025 with remand to judicial custody. Thereafter, the said Police Station is stated to have registered multiple FIRs on similar cause of action namely FIR Nos.150 to 157 of 2025, and all such FIRs were later transferred to CCS Police Station and renumbered as FIR Nos.94 to 102 of 2025 with additional invoked provisions including the provisions of the Surrogacy (Regulation) Act, 2021 (for short the 'Act of 2021') and the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short the 'JJ Act').

4. Based on the aforesaid predicate FIRs, respondent No.2 is stated to have recorded an ECIR bearing No.ECIR/HYZO/46/2025, dated 08.09.2025, on certain scheduled offences. Pursuant thereto, the

Enforcement Directorate is stated to have conducted search and seizure operations at various premises on 25.09.2025 and 01.10.2025, including the petitioner's clinic and residential addresses. It is further stated that an application *vide* Crl. Misc. Petition No.3662 of 2025 was filed before the Special Court seeking permission to record the petitioner's statement under Section 50 of the Prevention of Money Laundering Act, 2002 (for short the 'PMLA'). The said application stood allowed on 15.10.2025. Aggrieved, the petitioner challenged the said order before the High Court *vide* Crl.R.C.No.771 of 2025 and the same is pending consideration.

5. The petitioner states that while in custody, summons dated 24.10.2025 were issued and the statement was recorded on the same day under coercion and without effective access to legal assistance. Subsequently, the petitioner was summoned again on 06.02.2026 to appear on 11.02.2026 and was called again on 12.02.2026, on which date the petitioner was arrested under Section 19 of the PMLA. According to the petitioner, the arrest and remand are illegal and unconstitutional due to non-compliance with the statutory safeguards envisaged under Section 19 of the PMLA.

6. Learned Senior Counsel for the petitioner contended that the power of arrest under Section 19 of the PMLA is not an investigative tool but an exceptional power conditioned upon the authorized Officer forming an independent and *bona fide* 'reasons to believe' on the basis of 'material in possession' that is capable of translating into admissible evidence, that the arrestee is guilty of the offence of money laundering. Mere suspicion, unverified allegations or a mechanical reproduction of the grounds of arrest cannot satisfy this statutory threshold rather, the 'reasons to believe' must disclose a rational nexus between specific material and the alleged proceeds of crime and the petitioner's conscious involvement in money laundering activity. In the absence of such tangible, corroborated material showing a scheduled offence generating proceeds of crime and a demonstrable laundering process attributable to the petitioner, any arrest purportedly to unearth facts or aid investigation is contrary to law and vitiated as an arbitrary and colourable exercise of power, offending the safeguards built into Section 19 of the PMLA and the constitutional guarantee under Article 22(1). In support of his argument, the learned Senior Counsel relied on paragraph Nos.31, 32

and 47 of the Supreme Court's judgment in **Arvind Kejriwal vs. Directorate of Enforcement**¹. For ready reference, paragraph Nos.31, 32 and 47 are reproduced hereunder, viz.,

“31. Providing the written “grounds of arrest”, though a must, does not in itself satisfy the compliance requirement. The authorised officer's genuine belief and reasoning based on the evidence that establishes the arrestee's guilt is also the legal necessity. As the “reasons to believe” are accorded by the authorised officer, the onus to establish satisfaction of the said condition will be on DoE and not on the arrestee.

32. On the necessity to satisfy the preconditions mentioned in Section 19(1) of the PML Act, we have quoted from the judgment of this Court in Padam Narain Aggarwal [Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305 : (2009) 1 SCC (Cri) 1] and also referred to and quoted from the Canadian judgment in Gifford [Gifford v. Kelson, (1943) 51 Man. R 120] . Existence and validity of the “reasons to believe” goes to the root of the power to arrest. The subjective opinion of the arresting officer must be founded and based upon fair and objective consideration of the material, as available with them on the date of arrest. On the reading of the “reasons to believe” the court must form the “secondary opinion” on the validity of the exercise undertaken for compliance of Section 19(1) of the PML Act when the arrest was made. The “reasons to believe” that the person is guilty of an offence under the PML Act should be founded on the material in the form of documents and oral statements.

¹ (2025) 2 Supreme Court Cases 248

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 of the offence under the PML Act. Guilt can only be established on 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 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.”

7. Reliance is also placed by the learned Senior Counsel for the petitioner on **Pankaj Bansal vs. Union of India**², wherein in paragraph No.27 it was held as under, viz.,

“27. In this regard, we may note that, though the appellants did not allege colourable exercise of power or mala fides or malice on the part of ED officials, they did assert in categorical terms that their arrests were a wanton abuse of power, authority and process by ED, which would tantamount to the same thing. On that subject, we may refer to the observations of this Court in State of Punjab v. Gurdial

² (2024) 7 Supreme Court Cases 576

Singh [State of Punjab v. Gurdial Singh, (1980) 2 SCC 471] : (SCC p. 475, para 9)

“9. The question, then, is what is mala fides in the jurisprudence of power? Legal malice is gibberish unless juristic clarity keeps it separate from the popular concept of personal vice. Pithily put, bad faith which invalidates the exercise of power — sometimes called colourable exercise or fraud on power and oftentimes overlaps motives, passions and satisfactions — is the attainment of ends beyond the sanctioned purposes of power by simulation or pretension of gaining a legitimate goal. If the use of the power is for the fulfilment of a legitimate object the actuation or catalysation by malice is not legicidal. The action is bad where the true object is to reach an end different from the one for which the power is entrusted, goaded by extraneous considerations, good or bad, but irrelevant to the entrustment. When the custodian of power is influenced in its exercise by considerations outside those for promotion of which the power is vested the court calls it a colourable exercise and is undeceived by illusion. In a broad, blurred sense, Benjamin Disraeli was not off the mark even in law when he stated: ‘I repeat ... that all power is a trust — that we are accountable for its exercise — that, from the people, and for the people, all springs, and all must exist’. Fraud on power voids the order if it is not exercised bona fide for the end designed. Fraud in this context is not equal to moral turpitude and embraces all cases in which the action impugned is to effect some object which is beyond the purpose and intent of the power, whether this be malice-laden or even benign. If the purpose is corrupt the resultant act is bad. If considerations, foreign to the scope of the power or extraneous to

the statute, enter the verdict or impel the action, mala fides or fraud on power vitiates the acquisition or other official act.”

8. Similarly, reliance was also placed on the judgment of the Hon’ble Supreme Court in the case of **Vijay Madanlal Choudhary vs. Union of India**³, wherein in paragraph No.109, it was held as under, viz.,

“109. Tersely put, it is only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence that can be regarded as proceeds of crime. The authorities under the 2002 Act cannot resort to action against any person for money laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the jurisdictional police or pending inquiry by way of complaint before the competent forum. For, the expression “derived or obtained” is indicative of criminal activity relating to a scheduled offence already accomplished. Similarly, in the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a court of competent jurisdiction owing to an order of discharge, acquittal or because of quashing of the criminal case (scheduled offence) against him/her, there can be no action for money laundering against such a person or person claiming through him in relation to the property linked to the stated scheduled offence. This interpretation alone can be countenanced on the basis of the provisions of the 2002 Act, in particular Section 2(1)(u) read with Section 3. Taking any other view would be rewriting of these provisions and disregarding the express

³ (2023) 12 Supreme Court Cases 1

language of the definition clause “proceeds of crime”, as it obtains as of now.”

9. Learned Senior Counsel for the petitioner further contended that respondent No.2 acted in a wholly mechanical manner and the arrest stands vitiated at its inception, inasmuch as the so-called ‘grounds of arrest’ and the ‘reasons to believe’ are not founded on any demonstrable, cogent, admissible material and instead, are a bare verbatim replication of the statutory phraseology. It was submitted that the relevant paragraph supplied to the petitioner is conspicuously non-specific, does not disclose what material, what transaction, what role, what proceeds of crime or what nexus is attributed personally to the petitioner and therefore fails the statutory safeguard which requires an arresting Officer to form and record a genuine ‘reason to believe’ based on material in possession and thereafter to inform personalized grounds that necessitated arrest. The relevant paragraph is produced hereunder:

“24. Therefore, based on the material available on record, including FIRs, material seized during search operation, statements recorded under Section 50 of the PMLA, bank statements, property records and other material collected during investigation, I have reason to believe that you have been directly & actually involved in the various processes & activities connected with proceeds of crime viz.,

concealment, possession, and use of proceeds of crime, acquisition of assets out of proceeds of crime and projection of crime as untained. Thus, you have committed the offence of money laundering as defined under Section 3 and punishable under Section 4 of the PMLA, 2002.”

10. Further, he submitted that Section 19 of the PMLA is not an empty formality, since the provision uses the expression ‘**may arrest**’. The Officer must not only record reasons but must also disclose concrete grounds showing why arrest was necessary in the facts of the petitioner’s case which is general omnibus assertions merged with narration of facts, without any discernible and separate grounds tailored to the petitioner are impermissible. In support of his argument, the learned Senior Counsel relied on the case of **Pankaj Bansal** (supra) to submit that the grounds of arrest must be furnished in writing to the arrestee before production for remand. The paragraph Nos.17 and 19 of the said judgment are reproduced hereunder:

“17. At this stage, it would be apposite to consider the case law that does have relevance to these appeals and the issues under consideration. In Vijay Madanlal Choudhary [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1 : 2022 SCC OnLine SC 929 : (2022) 10 Scale 577] , a three-Judge Bench of this Court observed that Section 65 PMLA predicates that the provisions of the Code of Criminal Procedure, 1973, shall apply insofar as they are not

inconsistent with the provisions of PMLA in respect of arrest, search and seizure, attachment, confiscation, investigation, prosecution and all other proceedings thereunder. It was noted that Section 19 PMLA prescribes the manner in which the arrest of a person involved in money laundering can be effected. It was observed that such power was vested in high-ranking officials and that apart, Section 19 PMLA provided inbuilt safeguards to be adhered to by the authorised officers, such as, of recording reasons for the belief regarding involvement of the person in the offence of money laundering and, further, such reasons have to be recorded in writing and while effecting arrest, the grounds of arrest are to be informed to that person. It was noted that the authorised officer has to forward a copy of the order, along with the material in his possession, to the adjudicating authority and this safeguard is to ensure fairness, objectivity and accountability of the authorised officer in forming an opinion, as recorded in writing, regarding the necessity to arrest the person involved in the offence of money laundering. The Bench also noted that it is the obligation of the authorised officer to produce the person so arrested before the Special Court or Judicial Magistrate or a Metropolitan Magistrate, as the case may be, within 24 hours and such production is to comply with the requirement of Section 167 CrPC. It was pointed out that there is nothing in Section 19 PMLA which is contrary to the requirement of production under Section 167 CrPC and being an express statutory requirement under Section 19(3) PMLA, it has to be complied by the authorised officer. It was concluded that the safeguards provided in the 2002 Act and the preconditions to be fulfilled by the authorised officer before effecting arrest, as contained in Section 19 PMLA, are equally stringent and of

higher standard when compared to the Customs Act, 1962, and such safeguards ensure that the authorised officers do not act arbitrarily, by making them accountable for their judgment about the necessity to arrest any person involved in the commission of the offence of money laundering, even before filing of the complaint before the Special Court. It was on this basis that the Bench upheld the validity of Section 19 PMLA.

19. This Court had occasion to again consider the provisions of PMLA in V. Senthil Balaji v. State [V. Senthil Balaji v. State, (2024) 3 SCC 51 : (2024) 2 SCC (Cri) 1] , and more particularly, Section 19 thereof. It was noted that the authorised officer is at liberty to arrest the person concerned once he finds a reason to believe that he is guilty of an offence punishable under the 2002 Act, but he must also perform the mandatory duty of recording reasons. It was pointed out that this exercise has to be followed by the information of the grounds of his arrest being served on the arrestee. It was affirmed that it is the bounden duty of the authorised officer to record the reasons for his belief that a person is guilty and needs to be arrested and it was observed that this safeguard is meant to facilitate an element of fairness and accountability.”

11. Similarly, he placed reliance on paragraph No.209 of the judgment rendered by the Supreme Court in **Vijay Madanlal Choudhary** (supra) to emphasize that the statutory design of Section 19 contains inbuilt safeguards of fairness, objectivity and accountability, recording of reasons in writing based on material, communication of grounds of arrest

to the person and adherence to the procedure culminating in production under Section 167 of Cr.P.C. and that the validity of Section 19 of the PMLA itself has been upheld on the premise that these safeguards will be scrupulously followed. The paragraph No.208 is reproduced hereunder, viz.,

“208. Section 19 of the 2002 Act postulates the manner in which arrest of person involved in money laundering can be effected. Sub-section (1) of Section 19 envisages that the Director, Deputy Director, Assistant Director, or any other officer authorised in this behalf by the Central Government, if has material in his possession giving rise to reason to believe that any person has been guilty of an offence punishable under the 2002 Act, he may arrest such person. Besides the power being invested in high-ranking officials, Section 19 provides for inbuilt safeguards to be adhered to by the authorised officers, such as of recording reasons for the belief regarding the involvement of person in the offence of money laundering. That has to be recorded in writing and while effecting arrest of the person, the grounds for such arrest are informed to that person. Further, the authorised officer has to forward a copy of the order, along with the material in his possession, in a sealed cover to the adjudicating authority, who in turn is obliged to preserve the same for the prescribed period as per the Rules. This safeguard is to ensure fairness, objectivity and accountability of the authorised officer in forming opinion as recorded in writing regarding the necessity to arrest the person being involved in offence of money laundering. Not only that, it is also the obligation of the authorised officer to produce the person so arrested before the Special Court or

Judicial Magistrate or a Metropolitan Magistrate, as the case may be, within twenty-four hours. This production is also to comply with the requirement of Section 167 of the 1973 Code. There is nothing in Section 19, which is contrary to the requirement of production under Section 167 of the 1973 Code, but being an express statutory requirement under the 2002 Act in terms of Section 19(3), it has to be complied with by the authorised officer.”

12. It was therefore submitted that whereas in the present case the ‘reasons to believe’ and the ‘grounds of arrest’ are identically the same, it unmistakably reflects non-application of mind and demonstrates either absence of real ‘reasons to believe’ or absence of lawful, specific ‘grounds of arrest’. Such duplication strikes at the root of Section 19 the compliance and renders the arrest illegal. The learned Senior Counsel also relied on **Pradir Purkayastha vs. State (NCT of Delhi)**⁴ to highlight the clear jurisprudential distinction between general ‘reasons for arrest’ and the ‘grounds of arrest’ which must contain the basic facts in possession of the investigating agency that necessitated arrest and enable the arrestee to oppose custodial remand and seek bail. Applying the same principle, it was submitted that ‘reasons to believe’ can never

⁴ (2024) 8 Supreme Court Cases 254

be equated with or reproduced as 'grounds of arrest'. For ready reference the paragraph No.48 of the said judgment is produced hereunder, viz.,

“48. It may be reiterated at the cost of repetition that there is a significant difference in the phrase “reasons for arrest” and “grounds of arrest”. The “reasons for arrest” as indicated in the arrest memo are purely formal parameters viz. to prevent the accused person from committing any further offence; for proper investigation of the offence; to prevent the accused person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; to prevent the arrested person for making inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to the investigating officer. These reasons would commonly apply to any person arrested on charge of a crime whereas the “grounds of arrest” would be required to contain all such details in hand of the investigating officer which necessitated the arrest of the accused. Simultaneously, the grounds of arrest informed in writing must convey to the arrested accused all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the “grounds of arrest” would invariably be personal to the accused and cannot be equated with the “reasons of arrest” which are general in nature.”

13. Further, the learned Senior Counsel for the petitioner submitted that the petitioner has been gravely prejudiced because of the mechanical

and stereotyped grounds / reasons, without disclosure of the specific material particulars which make it practically impossible to prepare an effective defence against remand and bail opposition, and consequently the continued detention is unconstitutional and violative of the Article 22(1) of the Constitution of India.

14. Learned Senior Counsel for the petitioner contended that the remand was equally unsustainable since the Special Court, as required in law, ought to have applied judicial mind and formed a ‘secondary opinion’ on the validity of the reasons to believe and the legality of the arrest before authorizing custody. However, the remand order did not reflect any such judicial scrutiny or finding, showing that the remand was mechanical and consequently the continued detention of the petitioner is illegal. In support of his argument, the learned senior counsel relied on the case of **Arvind Kejriwal (supra)**, wherein in paragraph Nos.14, 74, 78 and 82, it held as under:

“14. Pankaj Bansal [Pankaj Bansal v. Union of India, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] reiterates V. Senthil Balaji [V. Senthil Balaji v. State, (2024) 3 SCC 51 : (2024) 2 SCC (Cri) 1] to hold that the Magistrate/court has the duty to ensure that the conditions in Section 19(1) of the PML Act are duly satisfied and

that the arrest is valid and lawful. This is in lieu of the mandate under Section 167 of the Code. If the court fails to discharge its duty in right earnest and with proper perspective, the remand order would fail on the ground that the court cannot validate an unlawful arrest made under Section 19(1). The Court relied on Madhu Limaye, In re [Madhu Limaye, In re, (1969) 1 SCC 292] , which held that it is necessary for the State to establish that, at the stage of remand, while directing detention in custody, the Magistrate has applied their mind to all relevant matters. If the arrest itself is unconstitutional viz. Article 22(1) of the Constitution, the remand would not cure the constitutional infirmities attached to such arrest. The principle stands expanded, as the violation of Section 19(1) of the PML Act will equally vitiate the arrest.

74. It has been strenuously urged on behalf of Arvind Kejriwal that the arrest would falter on the ground that the “reasons to believe” do not mention and record reasons for “necessity to arrest”. The term “necessity to arrest” is not mentioned in Section 19(1) of the PML Act. However, this expression has been given judicial recognition in Arnesh Kumar v. State of Bihar [Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449] , which lays down that “necessity to arrest” must be considered by an officer before arresting a person. This Court observed that the officer must ask himself the questions — Why arrest?; Is it really necessary to arrest?; What purpose would it serve?; and, What object would it achieve?

78. Thus, time and again, courts have emphasised that the power to arrest must be exercised cautiously to prevent severe

repercussions on the life and liberty of individuals. Such power must be restricted to necessary instances and must not be exercised routinely or in a cavalier fashion.

82. *Therefore, the issue which arises for consideration is whether the court while examining the validity of arrest in terms of Section 19(1) of the PML Act will also go into and examine the necessity and need to arrest. In other words, is the mere satisfaction of the formal parameters to arrest sufficient? Or is the satisfaction of necessity and need to arrest, beyond mere formal parameters, required? We would concede that such review might be conflated with stipulations in Section 41 of the Code which lays down certain conditions for the police to arrest without warrant:*

- (i) Section 41(1)(b)(ii)(a) — preventing a person from committing further offence.*
- (ii) Section 41(1)(b)(ii)(b) — proper investigation of the offence.*
- (iii) Section 41(1)(b)(ii)(c) — preventing a person from disappearing or tampering with evidence in any manner.*
- (iv) Section 41(1)(b)(ii)(d) — preventing the person from making any inducement or threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or police.*
- (v) Section 41(1)(b)(ii)(e) — to ensure presence of the person in the court, whenever required, which without arresting cannot be ensured.*

However, Section 19(1) of the PML Act does not permit arrest only to conduct investigation. Conditions of Section 19(1) have to be satisfied. Clauses (a), (c), (d) and (e) to Section 41(1)(b)(ii) of the Code, apart from other considerations, may be relevant.”

15. Learned Senior Counsel for the petitioner further contended that the very assumption of jurisdiction by the Enforcement Directorate is vitiated because the ECIR dated 08.09.2025 is founded on conjecture and suspicion without any cogent material establishing ‘proceeds of crime’ as defined under Section 2(1)(u) of PMLA, which is the *sine qua non* for an offence under Sections 3 and 4 of PMLA. It was submitted that the mere registration of FIRs does not *ipso facto* justify ED’s action unless there exists legally admissible, unimpeachable ‘material in possession’ forming valid ‘reasons to believe’ under Section 19 that the arrestee is guilty of money-laundering which is devoid of a demonstrated money trail, time frame or quantification of alleged proceeds and rely largely on co-accused statement without corroboration thereby failing the higher threshold of ‘reasons to believe’ which is recognized by the Hon’ble Supreme Court in **Arvind Kejriwal** (supra) and warranting strict judicial scrutiny at the remand stage. Further, it is submitted that no valid predicate / scheduled offence has been made out against the

petitioner and that the FIRs cited in the initial part of this order (FIR Nos.147/2025, 150/2025, 151/2025, 152/2025, 153/2025, 154/2025 and 157/2025 of Gopalapuram Police Station under various provisions of the BNS) do not disclose the essential ingredients to attract the scheduled offence to PMLA in the manner required by law with the alleged “illegal surrogacy / baby selling” narrative even if assumed, falling under the Act of 2021 whose offences are not scheduled under PMLA. Reliance was placed on **Vijay Madanlal Choudhary** (supra) wherein in paragraph No.106, it was held as under, viz.,

“106. The “proceeds of crime” being the core of the ingredients constituting the offence of money laundering, that expression needs to be construed strictly. In that, all properties recovered or attached by the investigating agency in connection with the criminal activity relating to a scheduled offence under the general law cannot be regarded as proceeds of crime. There may be cases where the property involved in the commission of scheduled offence attached by the investigating agency dealing with that offence, cannot be wholly or partly regarded as proceeds of crime within the meaning of Section 2(1)(u) of the 2002 Act — so long as the whole or some portion of the property has been derived or obtained by any person “as a result of” criminal activity relating to the stated scheduled offence. To be proceeds of crime, therefore, the property must be derived or obtained, directly or indirectly, “as a

result of” criminal activity relating to a scheduled offence. To put it differently, the vehicle used in commission of scheduled offence may be attached as property in the case (crime) concerned, it may still not be proceeds of crime within the meaning of Section 2(1)(u) of the 2002 Act. Similarly, possession of unaccounted property acquired by legal means may be actionable for tax violation and yet, will not be regarded as proceeds of crime unless the tax legislation concerned prescribes such violation as an offence and such offence is included in the Schedule to the 2002 Act. For being regarded as proceeds of crime, the property associated with the scheduled offence must have been derived or obtained by a person “as a result of” criminal activity relating to the scheduled offence concerned. This distinction must be borne in mind while reckoning any property referred to in the scheduled offence as proceeds of crime for the purpose of the 2002 Act. Dealing with proceeds of crime by way of any process or activity constitutes offence of money laundering under Section 3 PMLA.

16. Learned Senior Counsel for the petitioner also placed reliance on the judgment of the Madras High Court passed in W.P.Nos.4297 & 4300 of 2025 wherein in paragraph Nos.59 to 61 it was held as under:

“59. When this aspect was pointed out to Mr. A.R.L. Sundaresan, the Additional Solicitor General pointed out that criminal law can be set into motion by any person. That is a general principle of criminal law. No one can dispute it, and we certainly are not going to do it. If any criminal act takes place, it is certainly open to any individual to bring it to the notice of police or appropriate authorities who are entitled to

register a complaint on these aspects. A perusal of the papers show that no complaint had been lodged with respect to any of the aforesaid alleged criminal activities. The ED is not a super cop to investigate anything and everything which comes to its notice. There should be a “criminal activity” which attracts the schedule to PMLA, and on account of such criminal activity, there should have been “proceeds of crime”. It is only then the jurisdiction of ED commences. The terminus a quo for the ED to commence its duties and exercise its powers is the existence of a predicate offence. Once there exists a predicate offence, and the ED starts investigation under the PMLA, and file a complaint, then it becomes a stand alone offence. As long as there is no predicate offence, ED cannot plead that since no one set up the criminal law into motion, it will rely on that doctrine and commence proceedings under the PMLA.

60. *It is too well settled that where an act has to be done in a particular way, it must be done in that way and in no other way. The PMLA demands the existence of a predicate offence. When there is no predicate offence, initiation of proceedings under PMLA is a non starter. If the arguments of the Additional Solicitor General is accepted, then the ED on registration of an ECIR can conduct a roving enquiry with respect to other aspects also. That is not the position of law. To put it pithily, no predicate offence, no action by ED.*

61. *A careful perusal of Section 66(2) of PMLA points out that if during the course of investigation, the ED comes across violations of other provisions of law, then it cannot assume the role of investigating those offences also. It is to inform the appropriate agency, which is empowered by law to investigate into that offence. If that Agency, on*

the intimation from the ED, commences investigation and registers a complaint, then certainly the ED can investigate into those aspects also, provided there are “proceeds of crime”. In case, the investigating agency does not find any case with respect to the aspects pointed out by the ED, then the ED cannot suo motu proceed with the investigation and assume powers. The essential ingredient for the ED to seize jurisdiction is the presence of a predicate offence. It is like a limpet mine attached to a ship. If there is no ship, the limpet cannot work. The ship is the predicate offence and “proceeds of crime”. The ED is not a loitering munition or drone to attack at will on any criminal activity.”

17. It was submitted that the ECIR and consequential arrest are without jurisdiction, premature and the ED cannot convert non-scheduled allegation into a schedule offence through a roving enquiry or by invoking conspiracy principles which is contrary to the principles established in **Pavana Dibbur vs. Enforcement Directorate**⁵ wherein in paragraph No.29 held as under, viz.,

“29. The legislative intent which can be gathered from the definition of “scheduled offence” under clause (y) of sub-section (1) of Section 2 PMLA is that every crime which may generate proceeds of crime need not be a scheduled offence. Therefore, only certain specific offences have been included in the Schedule. Thus, if the submissions of the learned Additional Solicitor General are accepted, the Schedule will

⁵ (2023) 15 Supreme Court Cases 91

become meaningless or redundant. The reason is that even if an offence registered is not a scheduled offence, the provisions of PMLA and, in particular, Section 3 will be invoked by simply applying Section 120-B. If we look at Section 120-B, only because there is a conspiracy to commit an offence, the same does not become an aggravated offence. The object is to punish those involved in conspiracy to commit a crime, though they may not have committed any overt act that constitutes the offence. Conspiracy is an agreement between the accused to commit an offence. If we look at the punishments provided under Section 120-B, it becomes evident that it is not an aggravated offence. It only incorporates the principle of vicarious liability. If no specific punishment is provided in the statute for conspiracy to commit a particular offence, Section 120-B treats a conspirator of the main accused as an abettor for the purposes of imposing the punishment. The interpretation suggested by ED will defeat the legislative object of making only a few selected offences as scheduled offences. If we accept such an interpretation, the statute may attract the vice of unconstitutionality for being manifestly arbitrary. It cannot be the legislature's intention to make every offence not included in the Schedule a scheduled offence by applying Section 120-B. Therefore, in our view, the offence under Section 120-BIPC included in Part A of the Schedule will become a scheduled offence only if the criminal conspiracy is to commit any offence already included in Parts A, B or C of the Schedule. In other words, an offence punishable under Section 120-BIPC will become a scheduled offence only if the conspiracy alleged is of committing an offence which is otherwise a scheduled offence.”

18. Reliance was also placed on **Pankaj Bansal** (supra) wherein in paragraph Nos.22 and 23 wherein it was held as under, viz.,

“22. Madhu Limaye, In re [Madhu Limaye, In re, (1969) 1 SCC 292] was a three-Judge Bench decision of this Court wherein it was observed that it would be necessary for the State to establish that, at the stage of remand, the Magistrate directed detention in jail custody after applying his mind to all relevant matters and if the arrest suffered on the ground of violation of Article 22(1) of the Constitution, the order of remand would not cure the constitutional infirmities attaching to such arrest.

23. Viewed in this context, the remand order dated 15-6-2023 passed by the learned Vacation Judge/Additional Sessions Judge, Panchkula, reflects total failure on his part in discharging his duty as per the expected standard. The learned Judge did not even record a finding that he perused the grounds of arrest to ascertain whether ED had recorded reasons to believe that the appellants were guilty of an offence under the 2002 Act and that there was proper compliance with the mandate of Section 19 PMLA. He merely stated that, keeping in view the seriousness of the offences and the stage of the investigation, he was convinced that custodial interrogation of the accused persons was required in the present case and remanded them to the custody of ED! The sentence — “It is further (sic) that all the necessary mandates of law have been complied with” follows — “It is the case of the prosecution...” and appears to be a continuation thereof, as indicated by the word “further”, and is not a recording by the learned Judge of his own satisfaction to that effect.”

19. Reliance was also placed on **Arnesh Kumar vs. State of Bihar**⁶

wherein in paragraph No.5 it was held as under, viz.,

“5. Arrest brings humiliation, curtails freedom and casts scars forever. Lawmakers know it so also the police. There is a battle between the lawmakers and the police and it seems that the police has not learnt its lesson : the lesson implicit and embodied in CrPC. It has not come out of its colonial image despite six decades of Independence, it is largely considered as a tool of harassment, oppression and surely not considered a friend of public. The need for caution in exercising the drastic power of arrest has been emphasised time and again by the courts but has not yielded desired result. Power to arrest greatly contributes to its arrogance so also the failure of the Magistracy to check it. Not only this, the power of arrest is one of the lucrative sources of police corruption. The attitude to arrest first and then proceed with the rest is despicable. It has become a handy tool to the police officers who lack sensitivity or act with oblique motive.

20. Lastly, the learned Senior Counsel for the petitioner contended that the ED has wholly failed to discharge the initial and foundational burden of proof that casts upon it under the PMLA, inasmuch as the very core requirement which are namely identification, quantification and linkage of the alleged proceeds of crime to a specified criminal activity relatable to a scheduled / predicate offence has not been established even

⁶ (2014) 8 Supreme Court Cases 273

prima facie. The ‘reasons to believe’ and ‘grounds of arrest’ are just a copy paste and mutually repetitive, resting on vague assertions without disclosure of any concrete material, without establishing any crime period, without recording statements or demonstrating even a single specific transaction that can be said to generate or constitute proceeds of crime and instead making a desperate attempt to inflate and magnify unrelated transactions merely by pointing to massive cash deposits including in the accounts of the petitioner’s sons and alleging acquisition of properties, which by itself does not satisfy the statutory threshold of proceeds of crime emanating from the scheduled offence. In this regard, reliance was placed again on **Vijay Madanlal Choudhary** (supra) wherein it was held that even though ‘proceeds of crime’ may include property derived or obtained directly or indirectly, the explanation cannot be stretched to widen the main definition beyond the intent of tracking property derived as a result of criminal activity relating to the scheduled offence and therefore the investigating agency must demonstrate the necessary nexus and foundational facts and in the absence of such linkage and quantification, the presumption regarding interconnected

transactions under Section 23 is wholly inapplicable because no primary/initial transaction is established and consequently the presumption under Section 24 cannot arise unless the two statutory preconditions are satisfied that are (i) the person is charged with the offence of money laundering and (ii) there exists identifiable proceeds of crime. Further, since Section 19(1) requires 'reason to believe' based on material in possession indicating guilt of an offence punishable under Section 4, the ED could not have lawfully formed the requisite opinion to arrest the petitioner without first establishing, through material, what exactly the proceeds of crime are and their quantum and hence the arrest and continued detention are arbitrary, illegal and an abuse of process, having effected without the ED discharging its initial burden as mandated by law.

21. On the contrary, the learned Senior Standing Counsel for ED contended that the investigation has unearthed a sustained and organized pattern of serious misconduct by the petitioner reflected in multiple complaints pending since 2014 before the Telangana State Medical Council alleging fraudulent surrogacy practices and child trafficking. In

one such complaint in the year 2016, it was alleged that a childless couple was induced to undergo surrogacy on the assurance of receiving their biological child but a subsequent DNA test as undertaken during a foreign passport application process revealed that the child handed over was not biologically related to them, leading to suspension of petitioner's medical license for five years in 2016. He further submitted that despite such suspension she continued surrogacy operations through her establishments, particularly M/s.Universal Sruthi Fertility Research Centre (earlier Shrusthi Test Tube Baby Center), Visakhapatnam, as corroborated by birth records obtained from the Registrar of Births and Deaths, Visakhapatnam showing numerous deliveries during the period of suspension and by financial analysis of bank accounts and Income Tax returns indicating substantial receipts thereby evidencing continued medical practice without a valid license. He also relied upon FIR No.299 of 2020 and the charge sheet filed before the II Additional CMM, Visakhapatnam to submit that the criminal conspiracy involved arranging a surrogate delivery by Jalumuri Sundaramma and deceitfully projecting the childless couple (Santanu Roy and Amrita Sarkar) as expectant

parents through fabricated medical records, manipulation of the expected date of delivery through medication, payment flows including receipt of Rs.2,80,000/- by a key facilitator and suppression of the license suspension while effecting change of hospital name. It was further submitted that the subsequent return of a child to Sundaramma did not match her DNA, while the childless couple allegedly continued to have the baby, demonstrating grave irregularities suggestive of trafficking and reinforcing the seriousness of the allegations.

22. The learned Standing Counsel for ED contended that the arrest dated 12.02.2026 and the consequent remand order of the Special Court passed on the same day are in substance and the present writ petition is only an attempt to bypass the statutory regime under the PMLA particularly the stringent conditions governing release on bail under Section 45. It was contended that the arrest was effected strictly in conformity with Section 19 of the PMLA where the authorized Officer on the basis of material in possession formed 'reasons to believe' that the petitioner is guilty of an offence punishable under the PMLA and such reasons were reduced into writing, and the grounds of arrest were duly

furnished to the petitioner at the time of arrest. It was further contended that the record demonstrates ‘monumental material’ preceding the arrest, *inter alia*, predicate offence FIRs, independent investigation by ED, searches under Section 17, statements recorded under Section 50 including of co-accused / agents / facilitators / victims, the trail of proceeds of crime, bank account details / transactions, enquiries with statutory authorities and local bodies and even the petitioner’s own statement under Section 50 of PMLA showing that the arrest was not based on conjecture or on a mere desire to interrogate but on a legally sustainable satisfaction contemplated under Section 19.

23. Further, the learned Standing Counsel for ED contended that the petitioner’s plea of ‘non-application of mind’ by the Special Court while remanding the petitioner is misconceived. It was submitted that the remand Court’s duty at that stage is not to conduct a mini-trial or to undertake extensive appreciation of evidence but to satisfy itself that the statutory safeguards for arrest and remand are complied with. The language of the remand order when read as a whole and not selectively, indicates that the Special Court considered the rival submissions,

perused the relevant material / ED file (remand diary) and formed the necessary ‘secondary opinion’ regarding compliance with Section 19. He also submitted that the ‘reasons to believe’ and the ‘grounds of arrest’ are identical by submitting that Section 19 does not mandate that these two documents must be distinguishable in form or content and similarity cannot by itself establish illegality. In support of his argument, reliance was placed on paragraph No.53 of the decision of **Arvind Kejriwal** (supra) which for ready reference is reproduced hereunder, viz.,

“53. We now turn to the facts of the present case. At the outset we must record that DoE has produced the "reasons to believe" to invoke Section 19(1) of the PML Act. We have examined the contents thereof and the contents of the "grounds of arrest" furnished to Arvind Kejriwal upon his arrest. They are identical.”

24. Reliance was also placed on the decision rendered by the Punjab & Haryana High Court in the case of **Arvind Walia v. Enforcement Directorate**⁷ wherein it was held that similarity in the ‘reasons to believe’ and ‘grounds of arrest’ primarily reflects similarity of facts recorded and such similarity does not prove absence of application of mind or violation of any prescribed procedure, particularly in view of the

⁷ [CRWP Nos.8667 of 2025 (O&M) and 8750 of 2025 (O&M)]

limited scope of judicial review in arrest challenges. The paragraph No.9 of the said judgment is reproduced hereunder, viz.,

“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 the Arvind Kejriwal case (supra), which prohibits merits review of such documents.”

25. Learned Senior Standing Counsel for ED contended that non-cooperation cannot justify arrest under Section 19 by submitting that the petitioner is proceeding on a false premise. It was submitted that the

remand application does not treat non-cooperation as the sole basis for arrest / remand, rather it records multiple grounds including the necessity to prevent tampering with evidence, influencing witnesses and dissipation of proceeds of crime apart from the broader material connecting the petitioner with money laundering and proceeds of crime. He further contended that even otherwise where the arrest is founded not merely on an allegation of non-cooperation but on the subjective satisfaction based on material, the arrest is valid. In support of this argument, the reliance was placed on the judgment passed by the Chhattisgarh High Court in the case of **Chaitanya Baghel vs. Directorate of Enforcement**⁸ wherein it was observed that even if there is an alleged procedural lapse regarding non-cooperation the arrest does not become illegal where the grounds of arrest also refer to other legally relevant necessities such as preventing destruction of evidence, influencing witnesses and tracing proceeds of crime and that such issues insofar as they require assessment of adequacy, are more appropriately addressed by the Trial Court in bail proceedings rather than in writ

⁸ CRMP.No.2506 of 2025 - [2025 CGHC 52079]

jurisdiction at an incipient stage. The paragraphs Nos. 80, 90 and 103 of the said judgment are reproduced hereunder, viz.,

“80. It has been urged on behalf of the petitioner that the custodial action taken against him is illegal, inasmuch as there was neither necessity nor exigency warranting such coercive action. It is pertinent to mention here that the petitioner was neither served with summons under Section 50 of the PMLA nor required to appear in relation to the alleged offence before the ED, therefore, the allegations of non-cooperation are incorrectly mentioned in the document of ground of arrest but the arrest in the present case was not founded solely on the ground of non-cooperation but in the ground of arrest there are other grounds which justify the custodial action, therefore, only on the basis of wrong mention in the ground of arrest i.e. the non-cooperation of the accused in investigation would not by itself amount to illegality because the arrest of the present petitioner was not founded solely on ground of noncooperation but on the subjective satisfaction of the Investigating Officer based on material which was available with the ED. Therefore, this procedural lapse also does not amount to illegality whereas it amounts to irregularity. The Apex Court has held that mere non-cooperation to summons under Section 50 PMLA is not sufficient to constitute a ground for arrest under Section 19 of the PMLA. In Pankaj Bansal (supra), the court emphasized that the ED must show tangible material and the decision to arrest must conform to the safeguards and strictures of Section 19 of the Act.

90. As regards the non-cooperation and mechanical arrest, this Court finds that the issue involves disputed factual questions that cannot be

conclusively determined in exercise of writ jurisdiction. The Grounds of Arrest, though brief, refer to the necessity of preventing destruction of evidence, influencing of witnesses and tracing of proceeds of crime. Whether such reasons are adequate or not, is a matter of assessment by the trial court.

*103. The ground raised by the petitioner in this petition are procedural lapses/irregularities which does not amount to illegality. **Learned counsel for the respondent in para 70 of his written submission has stated that the petitioner deserves to be relegated to the remedy of regular bail which requires the petitioner to satisfy the mandatory twin conditions of bail under Section 45 of PMLA to seek release from custody.** agree with the contention raised by the learned counsel for the respondent that the grounds raised in this petition are procedural lapses irregularities not amounting to illegality and these are the grounds of bail. In light of the foregoing discussion, this Court finds no ground to interfere with the investigation or the arrest effected by the Investigating Agency. Accordingly the petition stands dismissed.*

26. Further, learned Senior Standing Counsel for ED contended that the petitioner's attempt to assail the arrest on the basis of alleged **non-supply / non-furnishing of all relied-upon documents** at the time of remand is misconceived both on facts and in law. It is submitted that the petitioner acknowledged that she has received grounds of arrest and that she has informed her son Dheeraj Krishna. This cannot be refuted as the

petitioner's signature is appended on arrest order dated 12.02.2025. Additionally, the intimation of arrest along with the email filed by respondents clearly show that the petitioner's son vis-a-vis family had been adequately intimated as per law. Therefore, it is submitted that the grounds of arrest and intimation of arrest were both communicated to the petitioner and her son in accordance with Article 22(1) of the Constitution of India and Section 19 of the PMLA Act. The statutory safeguard is that the arrestee must be informed of the grounds of arrest "as soon as may be", and that the authorized Officer must have recorded reasons in writing based on material in possession. He further submitted that the petitioner was furnished with written grounds and was produced before the competent Court within the statutory timeframe and the Special Court also had the ED file / remand diary available for perusal. It is submitted that the petitioner has made misleading and factually incorrect submissions regarding alleged non-intimation to the petitioner's son, despite the "intimation of arrest" specifically recording that she was informed and that arrest-related documents were being forwarded through e-mail. He also submitted that ED is also willing to

place in sealed cover the call recording evidencing such intimation and communication of the grounds and in any event no objection on this aspect was raised at the time of remand, demonstrating that this plea is an afterthought. Further, he argued that at this nascent stage, the remand Court does not adjudicate the evidentiary admissibility or probative value of each document and the petitioner's plea is essentially an attempt to convert a compliance inquiry into a disclosure regime akin to trial. Further, he submitted that in any event the relevant contents and gist of the material statements under Section 50, bank trails, searches / seizures and the alleged role attributed to the petitioner were incorporated in the reasons / grounds furnished, thereby sufficiently enabling the petitioner to understand the basis of arrest and any further grievance as to completeness of record or access to material is a matter to be addressed before the competent Court in appropriate proceedings and not a ground to invalidate the arrest or remand in writ jurisdiction. In support of his argument the learned standing counsel relied on the **Arvind Kejriwal** (supra) wherein in paragraph Nos.66 and 67 it has been held as under:

“66. In Amarendra Kumar Pandey v. Union of India, this Court elaborated on the different facets of judicial review regarding

subjective opinion or satisfaction. **It was held that the courts should not inquire into correctness or otherwise of the facts found except where the facts found existing are not supported by any evidence at all or the finding is so perverse that no reasonable man would say that the facts and circumstances exist.** Secondly, it is permissible to inquire whether the facts and circumstances so found to exist have a reasonable nexus with the purpose for which the power is to be exercised. In simple words, the conclusion has to logically flow from the facts. If it does not, then the courts can interfere, treating the lack of reasonable nexus as an error of law. Thirdly, jurisdictional review permits review of errors of law when constitutional or statutory terms, essential for the exercise of power, are misapplied or misconstrued. Fourthly, judicial review is permissible to check improper exercise of power. For instance, it is an improper exercise of power when the power is not exercised genuinely, but rather to avoid embarrassment or for wreaking personal vengeance. Lastly, judicial review can be exercised when the authorities have not considered grounds which are relevant or has accounted for grounds which are not relevant.

67. Error in decision-making process can vitiate a judgment/decision of a statutory authority. In terms of Section 19(1) of the PML Act, a decision-making error can lead to the arrest and deprivation of liberty of the arrestee. Though not akin to preventive detention cases, but given the nature of the order entailing arrest — it requires careful scrutiny and consideration. **Yet, at the same time, the courts should not go into the correctness of the opinion formed or sufficiency of the material on which it is based,** albeit if a vital ground or fact is not considered or the ground or reason is found to be non-existent, the order of detention may fail.”

27. Lastly, the learned Standing Counsel contended that the petitioner's challenge suffer from suppression, selective quotation and disputed questions of facts make it unsuitable for determination in exercise of extraordinary jurisdiction under Article 226. It was submitted that the petition proceeds on a piecemeal reading of the remand order, 'reasons to believe' and other papers, while omitting the overall narrative and the sequence of investigative steps undertaken prior to arrest. It was also contended that the petitioner has, on the one hand acknowledged receipt of the grounds of arrest and the fact of intimating a family member, yet on the other hand advanced a plea of non-intimation to relatives. Similarly, the petitioner asserts absence of material while simultaneously relying on extracts of the provisional attachment order and investigation record, which itself evidences pre-arrest searches, seizures and Section 50 statements. The respondent submitted that once the adjudication requires the Court to test the truthfulness of competing versions, such as what was shown to the remand Court, what exactly was furnished and whether any alleged lapse caused prejudice, those issues become disputed factual matters requiring evidentiary appreciation, for

which the appropriate forum is the Special Court / bail Court. Therefore, the instant writ petition is an exercise in merits masked as a procedural challenge and ought to be dismissed on the threshold ground of maintainability. In support of his argument the learned standing counsel relied on the judgment of Hon'ble Supreme Court in **Radhika Agarwal vs. Union of India**⁹ wherein in paragraph Nos.9, 10, 12 and 13 it has been held as under:

“9.However, when the legality of such an arrest made under the Special Acts like PMLA, UAPA, Foreign Exchange, Customs Act, GST Acts, etc. is challenged, the Court should be extremely loath in exercising its power of judicial review. In such cases, the exercise of the power should be confined only to see whether the statutory and constitutional safeguards are properly complied with or not, namely to ascertain whether the officer was an authorized officer under the Act, whether the reason to believe that the person was guilty of the offence under the Act, was based on the "material" in possession of the authorized officer or not, and whether the arrestee was informed about the grounds of arrest as soon as may be after the arrest was made. Sufficiency or adequacy of material on the basis of which the belief is formed by the officer, or the correctness of the facts on the basis of which such belief is formed to arrest the person, could not be a matter of judicial review.

⁹ [2025] INSC 272

10. It hardly needs to be reiterated that the power of judicial review over the subjective satisfaction or opinion of the statutory authority would have different facets depending on the facts and circumstances of each case. The criteria or parameters of judicial review over the subjective satisfaction applicable in Service related cases, cannot be made applicable to the cases of arrest made under the Special Acts. The scrutiny on the subjective opinion or satisfaction of the authorized officer to arrest the person could not be a matter of judicial review, in as much as when the arrest is made by the authorized officer on he having been satisfied about the alleged commission of the offences under the special Act, the matter would be at a very nascent stage of the investigation or inquiry. **The very use of the phrase "reasons to believe" implies that the officer should have formed a prima facie opinion or belief on the basis of the material in his possession that the person is guilty or has committed the offence under the relevant special Act. Sufficiency or adequacy of the material on the basis of which such belief is formed by the authorized officer, would not be a matter of scrutiny by the Courts at such a nascent stage of inquiry or investigation.**

12. It is pertinent to note that the Special Acts are enacted to achieve specific purposes and objectives. The power of judicial review in cases of arrest under such Special Acts should be exercised very cautiously and in rare circumstances to balance individual liberty with the interest of justice and of the society at large. Any liberal approach in construing the stringent provisions of the Special Acts may frustrate the very purpose and objective of the Acts. **It hardly needs to be stated that the offences under the PMLA or the Customs Act or FERA are the offences of very serious nature affecting the**

financial systems and in turn the sovereignty and integrity of the nation. The provisions contained in the said Acts therefore must be construed in the manner which would enhance the objectives of the Acts, and not frustrate the same. Frequent or casual interference of the courts in the functioning of the authorized officers who have been specially conferred with the powers to combat the serious crimes, may embolden the unscrupulous elements to commit such crimes and may not do justice to the victims, who in such cases would be the society at large and the nation itself. With the advancement in Technology, the very nature of crimes has become more and more intricate and complicated. Hence, minor procedural lapse on the part of authorized officers may not be seen with magnifying glass by the courts in exercise of the powers of judicial review, which may ultimately end up granting undue advantage or benefit to the person accused of very serious offences under the special Acts. Such offences are against the society and against the nation at large, and cannot be compared with the ordinary offences committed against an individual, nor the accused in such cases be compared with the accused of ordinary crimes.

13. Though, the power of judicial review keeps a check and balance on the functioning of the public authorities and is exercised for better and more efficient and informed exercise of their powers, such power has to be exercised very cautiously keeping in mind that such exercise of power of judicial review may not lead to judicial overreach, undermining the powers of the statutory authorities. **To sum up, the power of judicial review may not be exercised unless there is manifest arbitrariness or gross violation or non-compliance of the statutory safeguards provided under the Special acts, required to be**

followed by the authorised officers when an arrest is made of a person prima facie guilty of or having committed offence under the Special Act.”

28. Reliance was also placed on the judgment of **V. Senthil vs Balaji vs. State**¹⁰ wherein in paragraph No.30 it was held as under:

*“30. In a case where the mandate of Section 167 of the CrPC, 1973 and Section 19 of the PMLA, 2002 are totally ignored by a cryptic order, a writ of Habeas Corpus may be entertained, provided a challenge is specifically made. However, an order passed by a Magistrate giving reasons for a remand"can only be tested in the manner provided under the statute and not by invoking Article 226 of the Constitution of India, 1950. There is a difference" between a detention becoming illegal for not following the statutory mandate and wrong or inadequate reasons provided in a judicial order. While in the former case a writ of Habeas Corpus may be entertained, in the latter the only remedy available is to seek a relief statutorily given. In other words, a" challenge to an order of remand on merit has to be made in tune with the statute, while noncompliance of a provision may entitle a party to invoke the extraordinary jurisdiction. **In an arrest under Section 19 of the PMLA, 2002 a writ would lie only when a person is not produced before the Court as" mandated under sub-section (3), since it becomes a judicial custody thereafter and the concerned Court would be in a better position to consider due compliance.”***

¹⁰ 2023 SCC Online 934

29. Reliance was also placed on the judgment rendered by the High Court of Himachal Pradesh in the case of **Vikas Bansal vs. Directorate of Enforcement**¹¹ in paragraph Nos.27, 28 , 29, 31, 32 and 35 it has been held as under:

27. In terms of the law declared by the Hon'ble Supreme Court, the subjective opinion of the Arresting Officer must be founded and based upon fair and objective consideration of the material as is available with him on the date of arrest. The scope of 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 PM Act. The exercise is to ensure that DoE has acted in accordance with the law. The Courts scrutinize the validity of the arrest in exercise of power of judicial review and 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 ML Act, the exercise of power of judicial review would not be a cause of concern. Hon'ble Supreme Court has further held that under Section 19(1) of the PM Act, it is the designated/authorized officer who record in writing, their "reasons to believe that the arrestee is "guilty" of an offence under the PML Act. Thus, the arrest is based on the opinion of such Officer, which opinion is open to judicial review, however, not merit review. Section 19(1) of the ML Act does not permit arrest only to conduct investigation. Conditions of Section 19(1) have to be satisfied. It is the bounden duty of the authorized officer to record the reasons for his belief that a

¹¹ CWP.No.13600 of 2025

person is guilty and needs to be arrested and the safeguard is meant to facilitate an element of fairness and accountability. To effect an arrest, an officer authorized has to assess and evaluate the materials in his possess. Through such material, he is expected to form a reason to believe that a person has been guilty of an offence punishable under the PMLA, 2002. Thereafter, he is at liberty to arrest, while performing his mandatory duty of recording the reasons. Said exercise has to be followed by way of information being served on the arrestee of the grounds of arrest. Any non-compliance of the mandate of Section 19(1) of the PMLA, 2002 would vitiate the very arrest itself. When legality of an arrest made under the Special Acts like PMLA, UAPA, Foreign Exchange, Customs Act, GST Acts etc. is challenged, the Court should be extremely loath in exercising its power of judicial review. In such cases, the exercise of the power should be confined only to see whether the statutory and constitutional safeguards are properly complied with or not, namely, to ascertain whether the officer was an authorized officer under the Act, whether the 'reason to believe' that the person was guilty of the offence under the Act, was based on the "material" in possession of the authorized officer or not, and whether the arrestee was informed about the grounds of arrest as soon as may be after the arrest was made. **Sufficiency or adequacy of material on the basis of which the belief is formed by the officer, or the correctness of the facts on the basis of which such belief is formed to arrest the person, could not be a matter of judicial review. It hardly needs to be reiterated that the power of judicial review over the subjective satisfaction or opinion of statutory authority would have different facets depending on the facts and circumstances of each case. The criteria or parameters of judicial**

review over the subjective satisfaction applicable in service related cases cannot be made applicable to the cases of arrest made under the Special Acts. The scrutiny on the subjective opinion or satisfaction of the authorized officer to arrest the person could not be a matter of judicial review, in as much as when the arrest is made by the authorized officer on he having been satisfied about the alleged commission of the offences under the Special Act, the matter would be at a very nascent stage of the investigation or inquiry. The very use of the phrase "reasons to believe" implies that the officer should have formed a prima facie opinion or belief on the basis of the material in his possession that the person is guilty or has committed the offence under the relevant special Act. Sufficiency or adequacy of the material on the basis of which such belief is formed by the authorized officer, would not be matter of scrutiny by the Courts at such a nascent stage of inquiry or investigation.

28. It is evident from the judgments of the Hon'ble Supreme Court that the act of Arresting Officer of arresting a person is amenable to judicial review, but the scope of judicial review is limited. The High Court in exercise of its writ jurisdiction can only scrutinize as to whether the provisions of Section 19 of the PML Act, 2002 have been complied with or not. It cannot go into the adequacy or the sufficiency of the material etc. so as to conduct merit test of the satisfaction of the Arresting Officer. However, the High Court, of course, can see as to whether the arrest is legal or not, but, the legality has to be confined to the compliance of provisions of Section 19(1) of the Act. It is also evident from the judgments of the Hon'ble Supreme Court that though the arrest under Section 19(1) of the PM Act cannot be only for the purpose of investigation, but where

the arrest is also necessary for that purpose, if the same is after satisfaction of the statutory provisions of Section 19(1) of the Act, then such arrest cannot be interfered with by the High Court.

29. Coming back to the facts of the present case, this Court is of the considered view that the 'reasons to believe, which have been reduced into writing by the Arresting Officer not only point out to the involvement of the petitioner in the predicate offence, but also the involvement of the petitioner while dealing with the Proceeds of Crime. The Arresting Officer, in detail, has dealt in the 'reasons to believe' as to why, according to him, the arrest was necessary. Not only this, a perusal of the 'reasons to believe' demonstrates that after elaborating the reasons, the Arresting Officer also stated in Para-XVI thereof that the petitioner had committed the offence of money laundering and is connected with the Proceeds of Crime derived/obtained from the criminal activity related to scheduled offence and in acquisition of the said Proceeds of Crime. Though the word "guilty" has not been specifically used, but, when it stands mentioned in the reasons to believe that the Arresting Officer has reasons to believe under Section 19(1) of the PM Act that Vikas Bansal has committed the offence of money laundering and is connected with the Proceeds of Crime derived/obtained from the criminal activity related to scheduled offence and in acquisition of the said Proceeds of Crime, this was, indeed, recording down his satisfaction that as per him, the petitioner was guilty of offence punishable under the PM Act.

30. Besides this, it is further apparent from the 'reasons to believe' that said reasons were based on the material with the Arresting Officer, which stood elaborately dealt with in the 'reasons to believe,

both relating to the predicate offence as well as the commission of offence under the PML Act.

31. Now, in terms of the law declared by the Hon'ble Supreme Court, in exercise of its power of judicial review, this Court is not going into nor it can go into the correctness of the opinion of the Arresting Officer, because that is beyond the scope of judicial review. Suffice to say that when the mandatory requirements of Section 19(1) of the Act stand complied with by the Arresting Officer and the compliance is not cosmetic, this Court cannot hold the arrest of the petitioner to be bad in law. The contention of learned Senior Counsel for the petitioner that the arrest of the petitioner is for the sake of investigation only and same is not permissible under Section 19(1) of the Act, can also not be accepted, for the reason that though as per the judgments of the Hon'ble Supreme Court, the arrest of a person under Section 19(1) of the PM Act cannot only be for the purpose of investigation, but the same can also be for the purpose of investigation, if the arrest is in strict compliance of the provisions of Section 19(1) of the Act. In this case, the reasons to believe, indeed, *prima facie*, do justify the arrest of the petitioner in terms of Section 19(1) of the PML Act. The veracity of the 'reasons to believe cannot be gone into by the Court in these proceedings, however, it cannot be said that the 'reasons to believe, which have been reduced into writing do not demonstrate that a case was indeed made by the Arresting Officer for exercising his power of arresting the petitioner. Therefore, this Court is of the considered view that the arrest of the petitioner is not in violation of the provisions of Section 19(1) of the PM Act. Though learned Senior Counsel for the petitioner vehemently submitted that the chronology which preceded the arrest of the

petitioner, shroud the intent of the respondents with suspicion, **but this Court is of the considered view that as the requirements of Section 19 of the MLA were met in course of arrest of the petitioner, then the backdrop in which the person is arrested, cannot persuade the Court to declare the arrest in violation of the provisions of Section 19(1) of the Act. In fact, this Court is refraining from making any observation in this regard, so that it does not prejudice the case of either of the parties.**

32. Now, as this Court has held that the arrest of the petitioner was not in violation of Section 19(1) of the Act, the remand of the petitioner by the Court of learned Judicial Magistrate can also not be faulted with, as the satisfaction of learned Judicial Magistrate is also confined to ensuring that the provisions of Section 19(1) of the Act are complied with in letter and spirit. The discrepancies pointed out in the order of learned Judicial Magistrate, which were specifically referred to by learned Senior Counsel for the petitioner, also do not render either arrest or remand of the petitioner to be bad, for the reason that when the foundation of the arrest of the petitioner is being upheld by the Court, the edifice would also survive.

35. From the response of the respondent-Department and the documents appended with the reply, it is evident that statutory safeguards were properly complied with in the present case. The Arresting Officer was an Authorized Officer under Section 19(1) of the PML Act and the 'reasons to believe' that the petitioner was 'guilty' of the offence punishable under the PM Act were based on the material in possession of the Authorized Officer. It is also not in dispute that the petitioner was informed about the 'grounds of arrest' soon after his arrest. This Court again reiterates that in this backdrop the sufficiency

or adequacy of material, on the basis of which the belief was formed by the Arresting Officer or the correctness of the facts on the basis of which the belief was formed to arrest the petitioner, cannot be gone into by this Court in exercise of its power of judicial review in terms of the law declared by the Hon'ble Supreme Court.”

30. Having heard the contentions put forth on either side and on perusal of records, the question of law which arises for consideration are:-

- a) Whether the instant writ petition challenging the arrest dated 12.02.2026 and the consequential remand order is maintainable in exercise of jurisdiction under Article 226/227 of the Constitution of India, when an efficacious statutory remedy of bail under Section 45 of the PMLA and other remedies under the PMLA / BNSS are available and the challenge turns substantially on disputed facts?
- b) Whether, on the material placed, the arrest is vitiated for alleged non-compliance of Section 19(1) of the PMLA, including the requirement of ‘reasons to believe’ based on material in possession and communication of grounds of arrest? and

- c) Whether the remand order is liable to be set aside as mechanical, for alleged failure of the Special Court to form a ‘secondary opinion’ as contemplated by law.

31. We find that the petitioner invoked the extraordinary jurisdiction of this Court to nullify an arrest under Section 19 of the PMLA and the consequent remand at a stage when investigation is stated to be in progress. While we are conscious that personal liberty is a prized constitutional value, it is equally bound to recognize that the PMLA is enacted to combat laundering of proceeds generated from serious criminality and that the statute adopts a distinct architecture of investigation, attachment, adjudication and prosecution. Therefore, this Court cannot convert a writ petition challenging arrest into a surrogate bail hearing or a mini-trial on the correctness of the investigative narrative as judicial review is directed to legality, jurisdictional facts and fairness of procedure and not an appellate reassessment of the material and the petitioner’s submissions, howsoever carefully framed as procedural infirmities in substance seek a merit evaluation of the ‘reasons to believe’ the money trail and the scheduling of predicate

offences, which is beyond the permissible contours of writ jurisdiction at this stage.

32. Further, the petitioner seeks to invalidate an arrest and remand in an ongoing PMLA investigation. The PMLA is a special statute with a dedicated Special Court and a calibrated scheme for custody and release including the stringent bail conditions under Section 45 and writ jurisdiction being discretionary, it is not to be invoked to short-circuit statutory remedies, particularly where adjudication would require appreciation of disputed facts regarding the investigative record, the remand diary and the contemporaneous compliance steps at the time of arrest. At this stage the Court's scrutiny is confined to the legality of the decision-making process and the existence of jurisdictional facts and not the sufficiency or correctness of the evidence. The petitioner has an efficacious avenue before the Special Court to seek regular bail and to urge all permissible defences. Therefore, the writ Court cannot be invited to do indirectly what the statutory scheme requires to be tested before the Special Court. Further, the relief sought for setting aside arrest and remand which inevitably impacts the ongoing investigation and

interdiction at this stage is warranted only when illegality is manifest, jurisdiction is clearly absent or constitutional safeguards are demonstrably breached, which threshold is not met here.

33. Section 19 of the PMLA requires authorized Officer must have ‘material in possession’ and must record in writing ‘reasons to believe’ that the person is guilty of an offence punishable under the PMLA before arrest, and the petitioner’s premise that such ‘reasons to believe’ must read like admissible, trial-proof evidence setting out complete particulars of each alleged money laundering transaction is not the statutory design, as Section 19 demands the existence of relevant material and a rational nexus between that material and the belief recorded, not a pre-trial adjudication of guilt. According to the respondent’s submission predicate FIRs, searches and seizures, bank trails, Section 50 statements and enquiries with statutory bodies constitutes ‘material in possession’ capable of forming the statutory belief while questions of proof, admissibility and probative weight are for trial. Therefore, we reject the contention that mere similarity between the ‘reasons to believe’ and the ‘grounds of arrest’ by itself establishes non-application of mind because

narration of material facts in both documents does not by itself negate independent satisfaction and the plea that 'no material collected' exists is contradicted by asserted investigative steps and cannot be tested by a roving writ enquiry into the case file. The plea that 'no material was collected' cannot be accepted. The respondent asserts that, prior to the arrest, the investigation had already resulted in collection of material, including predicate FIRs, searches and seizures, statements and the financial trail. Whether that material is adequate, or what exact weight it carries, cannot be examined by this Court in writ jurisdiction by undertaking a roving enquiry into the case file.

34. Further, the expression 'material in possession' at the stage of arrest cannot be confined only to material already tested by cross-examination or finally adjudicated. At the arrest stage the Court only examines whether there is some objective material and a rational link between that material and the belief recorded and not whether each item is sufficient to prove guilt. An arrest is not rendered illegal merely because the investigation is still in progress. The arrest is not unlawful merely because investigation is continuing and once material indicative

of guilt is shown and reasons are recorded the writ Court will not substitute its view on timing. In the present case the respondent submitted that the arrest was necessary to prevent tampering with evidence, influencing witnesses and dissipation of proceeds of crime, apart from other material linking the petitioner, which are legitimate considerations if founded on the investigative context. Though the 'reasons to believe' must ultimately be capable of being proved in accordance with law at trial, we cannot insist upon trial-ready proof at the stage of arrest. Doing so would wrongly equate the threshold for arrest with the standard required for conviction.

35. It is a well settled law that the existence of a schedule offence and the presence of proceeds of crime are foundational jurisdictional preconditions for action under the PMLA and accordingly the agency cannot invoke the Act on mere assumption, conjecture or suspicion. The petitioner's prayer would require this Bench, at this nascent stage, to record a conclusive finding that the predicate offences do not fall within the scheduled offence or that no proceeds of crime exist, issues which inevitably entail disputed questions of fact and law arising from the

FIRs, the provisions invoked the nature of the alleged criminal activity and the alleged financial trail. So long as the respondent shows that the investigation is founded on predicate FIRs and is supported by the material suggesting the generation, possession, layering, projection or use of property as proceeds of crime. Therefore, we will not reassess the adequacy of such material or substitute its own view. The petitioner's objections as to scheduling, nexus and quantification are therefore matters to be urged before the Special Court in appropriate proceedings permissible in law. The petitioner's contention on 'quantification' of the alleged proceeds of crime at this stage is misconceived as quantification is a matter that unfolds through investigation and subsequent adjudication. At the stage of arrest, the jurisdictional enquiry is limited to whether there exists material indicating that property has been derived or obtained, directly or indirectly, from criminal activity relating to a scheduled offence and that the arrestee is involved in any of the processes or activities contemplated under Section 3 of the PMLA.

36. On the petitioner's own averments, as reflected in the respondent's contentions and having regard to the contemporaneous record placed

including the petitioner's signature on the arrest order and the documents evidencing intimation / communication, we are not satisfied that any clear or established infraction of Article 22(1) of the Constitution or Section 19 of the PMLA is made out. In any event, the questions of what precisely was served, what material was placed before the remand Court and whether intimation was in fact and effectively communicated to the petitioner's son are matters involving disputed facts. A writ Court is not the appropriate forum to undertake an evidentiary exercise such as examining call recordings, emails or oral versions to resolve these controversies. These issues may, if so advised, be agitated before the Special Court by way of appropriate applications. The petitioner's contention that the arrest stands vitiated merely because all the relied upon documents were not supplied at the time of remand cannot be accepted. The constitutional mandate is that the arrestee must be communicated with the grounds of arrest and the remand stage is not intended to operate as a full-fledged discovery or disclosure process. If any grievance persists regarding access to records thereafter, the same is to be pursued before the competent Court by adopting the appropriate

procedure available in law. In offence having a transnational and economic character the investigative record may legitimately comprise sensitive leads, third-party inputs and evolving financial analysis. The legal requirement is that the arrestee be informed of the grounds of arrest so as not to be kept in the dark; it does not oblige the authorities to furnish the entire investigation file at the threshold.

37. We also finds that, at that stage of remand the Court is only required to *prima facie* satisfy itself that the arrest has been effected in compliance with the statutory safeguards and is not manifestly illegal on its face. It is neither expected nor obliged at that stage to deliver an elaborate, reasoned order or to undertake a detailed scrutiny of the sufficiency of each item of investigative material. In the absence of a clear jurisdictional error apparent on the face of the remand record itself, we would not interfere with the order of remand in writ jurisdiction, particularly when the relief sought would, in substance, amount to a re-examination of issues of custody and bail under the guise of writ.

38. The petitioner's plea of 'mechanical remand' cannot be accepted merely because the remand order is brief. Remand orders are often

concise unless the record demonstrates that the remand Court wholly abdicated its duty. The remand Court's obligation to form a secondary opinion on Section 19 of PMLA in compliance with the stage of Section 187 BNSS remand, as reiterated in **Pankaj Bansal** (supra) and **Arvind Kejriwal** (supra) does not translate into a requirement of a detailed judgment akin to final adjudication; brevity is not illegality unless abdication is demonstrable on the face of the record.

39. It was also observed by the Bench that the learned Senior Counsel for the petitioner did not advance any substantive challenge to the PMLA proceedings on merits or on the factual matrix of the case, nor was there any challenge to the very applicability of the PMLA and that no serious contest was raised to the core allegations underpinning the ED's action. The Bench noted that this manner of argument indicated, at least *prima facie*, an acceptance of the prosecution narrative which in turn lent support to the inference regarding the alleged modus operandi and the need for the statutory process to take its course.

40. Moreover, we find that the allegation relate to an organized exploitation of vulnerable persons, further manipulation and cheating

parenthood and identity through illegal practices. Such allegations, if true, have a long shadow on both the parents and the child. A child who grows up to discover that the biological origin was misrepresented can face deep psychological distress, identity confusion, and social stigma. The parents too may suffer trauma, grief, and loss of trust, apart from the fear of social judgment and legal uncertainty.

41. Society bears the cost when medical systems are alleged to be used to commodify children and to erode the integrity of birth records and family identity. The justice system must therefore ensure that investigations into such alleged conduct are not obstructed without clear illegality. The petitioner's license was previously suspended on serious allegations, yet the alleged conduct is stated to have continued. This strengthens the need for lawful investigation to proceed unhindered, subject to safeguards. A child's identity is not merely a biological fact but it is also a social truth lived each day within a family, in school, in the community and in official records. If the allegation is that a child was handed over under false assurances and false documentation, the injury

is not limited to a single transaction but it can fracture trust within the family and expose the child to lifelong questions about belonging.

42. The emotional harm in such cases is often silent and cumulative. Parents who believed they were taking their biological child home may live with recurring grief and helplessness upon learning otherwise. The child may face distress on learning that the foundational narrative of birth was altered. In a society where lineage and identity are frequently treated as markers of social standing, such revelations can expose a child to stigma and a family to social judgement. These are precisely the kinds of allegations which require careful, unobstructed investigation within the bounds of law.

43. This Bench is also conscious of the wider societal and emotional dimensions that accompany allegations of illegal surrogacy/child trafficking and manipulation of parenthood. In many cases couples who are medically unable to conceive approach fertility centres with deep vulnerability and legitimate hope, investing substantial emotional, physical and financial resources in a process that they believe is lawful, ethical and medically regulated. Medical institutions, particularly fertility

clinics and hospitals occupy a position of heightened trust as they are expected to function with professional integrity, transparent counselling, informed consent, strict record-keeping and rigorous compliance with statutory safeguards because the procedure does not involve merely “treatment” but implicates identity, lineage and the legal status of a child. If the allegation is that such institutional trust is exploited through deception, substitution of babies, fabrication of records, manipulation of birth registrations or routing of procedures through informal agents, the harm is not confined to a private dispute between individuals but also undermines public confidence in the medical system, weakens the credibility of regulatory oversight and creates a climate where even lawful, medically necessary surrogacy is viewed with suspicion. The resultant distress often extends beyond the immediate parties and these acts, if established, carry stigma and trauma that can persist for years and can irreparably affect the child’s sense of identity and belonging. Therefore, while the Bench remains vigilant to protect liberty through procedural safeguards, yet must be equally vigilant that the extraordinary

writ jurisdiction is not used to pre-emptively arrest the investigative process in cases having serious social ramifications.

44. For all the above reasons, the writ petition is dismissed, leaving it open for the petitioner to pursue remedies available to her before the Special Court. The question of law framed in paragraph No.30 of this order stands answered against the petitioner and in favour of the respondents.

45. As a sequel, miscellaneous petitions pending if any, shall stand closed. However, there shall be no order as to costs.

P.SAM KOSHY, J

NARSING RAO NANDIKONDA, J

Date: 21.04.2026

Note: L.R. copy to be marked.
(B/o)GSD