

Reserved on : 20.02.2025
Pronounced on : 07.03.2025



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 07TH DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.1129 OF 2025

BETWEEN:

SRI B.S. SURESHA
S/O LATE B.M.SUBBANNA
AGED ABOUT 52 YEARS
RESIDING AT NO.174, BYRATHI
BENGALURU NORTH
DR.SHIVARAMA KARANTH NAGAR
BENGALURU – 560 077.

... PETITIONER

(BY SRI C.V.NAGESH, SR.ADVOCATE FOR
SRI PRAVEEN KAMATH M.R., ADVOCATE)

AND:

DIRECTORATE OF ENFORCEMENT
REPRESENTED BY ITS
ASSISTANT DIRECTOR
MINISTRY OF FINANCE AND
DEPARTMENT OF REVENUE
BENGALURU ZONAL OFFICE

3RD FLOOR, BLOCK 'B'
BMTc BUILDING, K.H.ROAD
BENGALURU – 560 027.

... RESPONDENT

(BY SRI ARAVIND KAMATH, ASGI A/W
SRI MADHUKAR DESHPANDE, SPL.PP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 528 OF THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023, PRAYING TO A) QUASH THE INITIATION OF PROCEEDINGS AND INVESTIGATION PERTAINING TO ECIR BEARING F.NO.BGZO/25/2024 REGISTERED BY THE RESPONDENT ARISING OUT OF THE PREDICATE OFFENCE IN CRIME NO.11/2024, REGISTERED BY THE LOKAYUKTHA POLICE; B) QUASH THE SUMMONS ISSUED UNDER SECTION 50 OF PMLA DATED 22/01/2025 BEARING SUMMON NO.PMLA/SUMMON/BGZO/2025/2889/8748 TO THE PETITIONER HEREIN (ANNEXURE-A).

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 20.02.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner is before this Court calling in question initiation of proceedings pursuant to registration of Enforcement Case Information Report ('ECIR') arising out of predicate offence in Crime No.11 of 2024.

2. Heard Sri C.V. Nagesh, learned senior counsel appearing for the petitioner and Sri Arvind Kamath, learned Additional Solicitor General of India appearing for the respondent.

3. Shorn of unnecessary details, facts in brief, germane are as follows:-

The petitioner is a sitting Member of the Legislative Assembly. The genesis of the present petition is relatable to the accused in Crime No.11 of 2024. The present petitioner is not an accused. He has come into the picture as he is presently functioning as the

Minister for Urban Development and Town Planning in the State of Karnataka. While investigating in to the offence pursuant to registration of ECIR against accused No.2, wife of the Chief Minister and petitioner in Criminal Petition No.1132 of 2025, the petitioner has been dragged into the proceedings. As observed hereinabove, the petitioner is dragged in only for the reason that he is presently holding the portfolio of Minister for Urban Development and Town Planning. Barring this, the summons nowhere indicates any involvement of the petitioner. Registration of ECIR and issuance of summons is what has driven the petitioner to this Court in the subject petition.

4. The learned senior counsel Sri C.V. Nagesh appearing for the petitioner would take this Court through the summons and submits that it is understandable as to what is the crime the petitioner has committed. The petitioner is not aware of what has happened in Mysore Urban Development Authority ('MUDA') 15 years ago. He has now become the Minister. There is no allegation that after him becoming the Minister there is any criminal activity which concerns Crime No.11 of 2024. Without looking into the role

of the petitioner, ECIR is registered and summons issued. He would submit that it violates the right to privacy of the petitioner, as the questionnaire attached to the summons relates to all the properties owned by the petitioner and the relatives of the petitioner to be divulged before entering the hall of the Enforcement Directorate for interrogation.

5. Per contra, the learned Additional Solicitor General of India Sri Arvind Kamath would vehemently refute the submissions to contend that the proceedings under ECIR are civil in nature and summons are issued for the purpose of getting the information. The petitioner cannot evade appearing before the Enforcement Directorate and tendering his evidence. He would submit that the contention with regard to all the properties being divulged in the questionnaire is necessary for the reason of analyzing the issue of money laundering related to Crime No.11 of 2024. He would seek dismissal of the petition.

6. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

7. The afore-narrated facts are not in dispute. The issue lies in a narrow compass. The petitioner becomes the cabinet Minister holding the portfolio of Urban Development and Town Planning. His tenure as cabinet Minister begins on him being sworn as a Minister pursuant to his victory in the general Assembly Election of 2023 from Hebbal constituency. The issue in the *lis* does not relate to the petitioner at all. It relates to Crime No.11 of 2024. The petitioner is not an accused in Crime No. 11 of 2024. He is not charged of conspiracy. He is wanting to be summoned for the purpose of enquiry. Therefore, it is germane to notice what is the summons issued to the petitioner under Section 50 of the Prevention of Money Laundering Act, 2002 ('the Act' for short). The summons reads as follows:

"Summon No.:PMLA/SUMMON/BGZO/2025/2889/8748
F.No.BGZO/25/2024.

Summon

Whereas I, V. Muralikkannan, AD (authority under PMLA), am making investigation or proceeding under the provisions of the Prevention of Money Laundering Act, 2002 (15 of 2003) (PMLA).

And whereas, I consider the attendance of Sri Byrathi Suresh necessary to give evidence and for production of records in connection with the investigation or proceeding under PMLA.

Now, therefore, in exercise of the powers conferred upon me under sub-section (2) and sub-section (3) of Section 50 of PMLA. I require said Shri Byrathi Suresh to appear before me in person at my office at the mentioned address on 27-01-2025 at 11.00 a.m. to give evidence and to produce records as per schedule below in connection with the investigation or proceeding under PMLA.

SCHEDULE
(As per Annexure-'A' enclosed)

GIVEN UNDER MY HAND AND SEAL, THIS 22nd Day of 01, 2025.

Sd/-
Signature and Seal of IO
V.Muralikkannan,
AD, AD[BGZO(3)(1)]

To
Shri Byrathi Suresh,
Minister Urban
Development Department.
Vikas Soudha, Bangalore.

Note:

1. Every proceeding under sub-section (2) and sub-section (3) of Section 50 of the Prevention of Money Laundering Act, 2002 shall be deemed to be a judicial proceeding within the meaning of Section 229 and Section 267 of Bharatiya Nyaya Sanhita, 2023(45 of 2023).

2. It is hereby informed that if you fail to attend to give evidence and/or produce records as mentioned in the Schedule at the place and time as specified in the said summon, you shall

be liable to penal proceedings under the Prevention of Money Laundering Act, 2002 (15 of 2003) and other relevant provisions of Bharatiya Nyaya Sanhita, 2023 (45 of 2023).

1. In person oral deposition.
2. Details as per the attached General Questionnaire."

Summons directed the petitioner to appear before the Enforcement Directorate in person, for oral deposition, after filling in the details as per the attached questionnaire. The questionnaire assumes certain significance. Therefore, it is necessary to notice. It reads as follows:

"GENERAL INFORMATION QUESTIONNAIRE
(Please bring below mentioned details in hard copy as well as in soft copy in Pen drive/e-mail)

1. Personal Profile:

- (i) Name:
- (ii) Alias:
- (iii) Date & Place of birth:
- (iv) Permanent Address:
- (v) Present Address:
- (vi) Identification mark:
- (vii) Educational qualification and name of the institutes:
- (viii) Email ID.
- (ix) Website address:
- (x) Telephone/Fax/Telex Nos.
 - (a) Residential:
 - (b) Business:
 - (c) Mobile:
- (xi) Passport details:
 - (a) Passport No.
 - (b) Place & date of issue:
 - (c) Valid upto –

- (d) Foreign visit with purpose – Furnish the details date wise for every trip along with the purpose.
- (e) Details of previous passport, if any issued:
- (xii) Aadhaar No:
- (xiii) Whether summoned/arrested/detained/ convicted under FERA/FEMA in the past, if yes:
 - (a) Date:
 - (b) Nature of involvement
 - (c) Name & address of the associated in the case:
- (xiv) Whether summoned/arrested/detained/ convicted/under any other criminal offence or under Customs/DRI/Excise/Income-tax/Police/ other Department in the past, if yes:
 - (a) Date
 - (b) Nature of involvement;
 - (c) Details of arrest, if any:
 - (d) Name & address of the associated in the case:
- (xv) Languages known:
 - (a) Read:
 - (b) Write;
 - (c) Speak:

2. **Family profile (Name, age, address, source of income & contact numbers.**

- (i) Father:
- (ii) Mother:
- (iii) Spouse
- (iv) Children:
 - (a)
 - (b)
- (v) Brothers:
 - (a)
 - (b)
- (vi) Sisters:
 - (a)
 - (b)
- (vii) Father-in-law:
- (viii) Brother-in-law:

- (a)
- (b)
- (ix) Sister-in-law:
 - (a)
 - (b)
- (x) Co-brothers-in-law:
 - (a)
 - (b)

3. **Associates: if any:**

4. **Business Profile:**

- i. Details of firms/companies/proprietary concern and their subsidiaries related to you in following format, located in India and Foreign:

Sl. No.	Name of the Entity	Full address of the entity along with e-mail/ phone no.	Name and address of authorized signatory	Income Tax details	IEC Number
1.					
2.					
(Attach separate sheet if required)					

- ii. Details of all the Bank accounts held in the name of above said entities and their subsidiaries (in India and Foreign), in following format:

Name of the Bank	Branch Name	Bank A/c No.	Type of A/c		Name of A/c Holder
(Attach separate sheet if required)					

5. **Financial Profile:**

- (i) Personal:

- (a) Income tax details

- (i) Permanent Account Number (PAN)
- (ii) Ward Number
- (iii) Annual Income (Presently)
- (iv) Various source of income:
- (v) Director's Identification Number (DIN)

(b) Details of all the Bank accounts (India and Foreign):

Name of the Bank	Branch Name	Bank A/c No.	Type of A/c		Name of A/c Holder
	(Attach separate sheet if required)				

- (c) Details of Lockers:
- (d) Details & full address of properties held (also attach copies of latest Encumbrance Certificate and Sale Deed of each property).

(i) Ancestral:

(ii) Personal:

- (e) Other assets viz., shares/debentures/investment in insurance policies etc.
- (f) Details of Vehicles:

(ii) Family furnish all the below mentioned details, for each family member i.e, spouse, father, mother, children and also for the subject entity/ies).

(a) Income tax details:

- (i) Permanent Account Number (PAN)
- (ii) Ward Number
- (iii) Annual Income (Presently)
- (iv) Various source of income:
- (v) Director's Identification Number (DIN)

(b) Details of all the Bank accounts (India and Foreign):

Name of the Bank	Branch Name	Bank A/c No.	Type of A/c	Name of A/c Holder
(Attach separate sheet if required)				

- (c) Details of Lockers:
- (d) Details & full address of properties held (also attach copies of latest Encumbrance Certificate and Sale Deed of each property).
 - (i) Ancestral:
 - (ii) Personal:
- (e) Other assets viz., shares/debentures/investment in insurance policies etc.
- (f) Details of Vehicles:"

The information about the petitioner is sought in its entirety. The summons does not stop at that. It seeks information of the entire family members – father, mother, spouse, children, brothers, sisters, father-in-law, brother-in-law, sister-in-law, co-brothers-in-law, all associates, the business profile, financial profile of the noticee and all the members of the family and details of the lockers and so on and so forth.

8. Section 50 of the Act reads as follows:

"50. Powers of authorities regarding summons, production of documents and to give evidence, etc.—(1)
The Director shall, for the purposes of Section 13, have the

same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:—

- (a) discovery and inspection;
- (b) enforcing the attendance of any person, including any officer of a reporting entity, and examining him on oath;
- (c) compelling the production of records;
- (d) receiving evidence on affidavits;
- (e) issuing commissions for examination of witnesses and documents; and
- (f) any other matter which may be prescribed.

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

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

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

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

Provided that an Assistant Director or a Deputy Director shall not—

- (a) impound any records without recording his reasons for so doing; or**
- (b) retain in his custody any such records for a period exceeding three months, without obtaining the previous approval of the Joint Director.”**

Section 50 deals with powers of authorities regarding summons, production of documents and to give evidence. Sub-section (2) mandates that the competent officer shall have the power to summon any person whose attendance he considers necessary whether to give evidence or to give any records during the course of investigation or proceedings under the Act. All the persons summoned shall be bound to attend in person or through authorised agents as such officer may direct, and shall be bound to state the truth. Every proceeding under sub-section (2) and sub-section (3) shall be deemed to be a judicial proceeding. The Assistant Director, on appearance of the person to whom summons is issued, has the power to impound any records without giving reason for so doing and retain in custody any such records without prior approval for a period of three months. Holding that the person to whom summons is issued is not cooperating with the

investigation, it is open to the Enforcement Directorate to arrest the said person.

9. Admittedly, the petitioner comes into the picture in the year 2023 as Minister for Urban Development. In Writ Petition No.1132 of 2025 the Enforcement Directorate has filed detailed objections. In those detailed objections, nowhere the name of the petitioner figures. The petitioner is now called to tender evidence. If the investigation, search, seizure or even order of attachment all related to their genesis long before entry of the petitioner, it is understandable as to why the petitioner is being summoned.

10. If the petitioner has nothing to do with all that has happened in MUDA which forms the fulcrum of crime in Crime No.11 of 2024, it is rather difficult to accept the submission of the learned Additional Solicitor General that summons cannot be challenged and whoever is summoned is bound to come and depose before the Officer. While in the normal circumstance, it would have been permissible but, in the light of the fact that the petitioner is not even remotely connected nor the investigation trail conducted

by the Enforcement Directorate leads to the doors of the petitioner, in the peculiar facts of the case, it becomes difficult to permit such summoning.

11. In an identical circumstance where summons was issued to the former Commissioner of MUDA one Dr.Natesha, the coordinate Bench, interpreting Section 50 of the Act, in the case of **DR. NATESHA D.B. v. DIRECTORATE OF ENFORCEMENT**¹ while allowing the petition formulated 4 issues. They read as follows:

"....

Issues

8. After considering the arguments of the learned counsel for the parties, the following issues emerge for consideration :

- i. Whether the authorisation issued to conduct the impugned search and seizure at the residence of the petitioner on 28.10.2024 and 29.10.2024, and the consequent statement recorded under Section 17 of PMLA, 2002 suffers from lack of jurisdiction?
- ii. Whether the said impugned search and seizure and the statement recorded, is bad in law for lack of the requisite "*reason to believe*" under section 17(1) of PMLA, 2002, and is therefore, an abuse of process of law?

¹Writ Petition No.32956 of 2024,Decided on 27.01.2025.

- iii. **Whether the impugned summons/notices issued under Section 50 of PMLA, 2002 and the various statements recorded thereunder, be sustained under the law?**
- iv. Whether, in the course of its administration and execution of the PMLA, 2002, the attachment of property under Section 5 of the Act must mandatorily precede the conduct of search and seizure under Section 17 of the said Act? “

Issue No.3 relates to, whether the summons impugned therein issued under Section 50 of the Act was sustainable in law. The issue is answered from paragraphs 35 to 54. They read as follows:

“

ISSUE NO. 3

35. The petitioner herein further challenges the repeated issuance of summons under Section 50 of the PMLA, arguing that these summons are vague because they do not specify whether the petitioner is being treated as an accused or a witness. This, according to the petitioner, violates the constitutional protection against self-incrimination under Article 20(3) of the Constitution.

36. Section 50 of PMLA deals with *Powers of authorities regarding summons, production of documents and to give evidence, etc.* and the relevant portions thereof, reads thus –

"Section 50. - ...

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

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

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

(Emphasis supplied)

37. In the case of **Vijay Madanlal (supra)**, the Hon'ble Supreme Court clarified that the process under Section 50 of the PMLA, which involves summoning a person whose presence is needed for gathering evidence or records, is part of an inquiry into the proceeds of crime, and not an investigation for prosecution under the Act. There is no formal accusation brought against the summoned individual at this stage, to warrant invoking the constitutional guarantee under Article 20(3).

38. In the case of **Abhishek Banerjee v. Directorate of Enforcement (2024) INSC 668**, the Supreme Court dealt with a challenge to the issuance of summons and reaffirmed the ratio enunciated in the case of *Vijay Madanlal* and held that summons can be issued even to witnesses during the inquiry. It further stated that the procedure under the Act and its rules require the officer issuing the summons to follow Rule 11 of the PMLA Rules, 2005 which mandates the issuance of summons in Form V. The summons must include details such as the name, designation, and address of the summoning officer.

39. The Supreme Court in the case of **Mahabir Prasad Rungta v. Directorate of Enforcement, in SLP (Crl) No. 12353/2024**, also followed the *Vijay Madanlal* case and stated that money laundering charges under the PMLA cannot be concluded until the trial for the predicate offence is completed.

40. In **Sudarshan Ramesh v. Union of India (2023) SCC OnLine Kar 71**, a coordinate Bench of this Court dealt with a case, where the petitioner was repeatedly summoned in connection with an investigation involving his

brother, who was implicated in a scheduled offence under the PMLA. The Court noted that despite the petitioner cooperating, nothing incriminating had been found, and he had been summoned without any reasonable grounds other than his family connection. The Court held that the principle of probable cause or reasonable grounds is fundamental to the criminal justice system, and that a person cannot be repeatedly summoned without probable cause for convenience of the prosecution.

41. In response, the learned Additional Solicitor General of India, contended that Section 50 of the Act empowered the authorized officers to summon any person necessary to give necessary evidence or produce any record. In support of the same, the learned ASG drew the attention of the Court to various precedents, including the case of **Director General of Income Tax (Investigation) v. Spacewood Furnishers Pvt. Ltd. (2015) 12 SCC 179**, wherein the Hon'ble Supreme Court stated that while the reasons for search and seizure conducted under Income Tax Act, 1961 must be recorded, they do not need to be communicated to the person at that time. The Court also emphasized that judicial review cannot question the adequacy of the reasons for search, but only their relevance, and that any review of the sufficiency of the reasons or the authenticity of the information is not permissible. Therefore, the ASG argued that this Court cannot review the adequacy of the reasons for the search conducted under Section 17 and the issuance of summons under Section 50 of the PMLA.

42. In the case of **Assistant Commissioner of Income Tax v. Rajesh Jhaveri Stock Broker Pvt. Ltd., (2008) 14 SCC 208**, the Hon'ble Apex Court opined that the phrase "*reason to believe*" in Section 147 of the Income Tax Act, 1961 means a cause or justification for the purpose of assessing or reassessing income chargeable to tax, if income for any assessment year had escaped assessment. The Court further held that this expression does not require the assessing officer to have finally ascertained the facts with legal evidence or conclusion. It was emphasized that the assessing officer must act fairly towards the taxpayer while administering the statute.

43. The learned ASG also referred to the case of **Vijay Madanlal Choudhary & Ors. v. Union of India & Ors. (2022) SCC OnLine SC 1929**, where the Supreme Court observed that the provisions of the PMLA, 2002 aim not only to investigate money laundering but also to prevent money laundering and confiscate any property related to money laundering. The Court noted that the trifold objectives of the Act make it distinct from the process of investigating a scheduled offence. The Court further held that the authority conducting the search under Section 17 of the Act must forward a copy of the recorded reasons and material in its possession to the adjudicating authority in a sealed envelope immediately after the search and seizure. This procedure ensures that the contents are not tampered with, thereby guaranteeing procedural fairness and accountability. The Apex Court also noted that Section 62 of the Act provides punishment for officials conducting vexatious searches.

43.1. Relying on the above, in response to the allegation that the impugned search was arbitrary, the learned ASG argued that the PMLA has in-built safeguards against arbitrariness and misuse of power, and therefore, this Court should not be compelled to review the search and issuance of summons at this stage.

44. In the case of **Kirit Shrimankar v. Union of India & Ors., WP (Crl.) No. 109/2013, DD 20.11.2014, and connected matters**, the Hon'ble Supreme Court observed in a challenge to the issuance of summons under Section 108 of the Customs Act, 1962 or Section 14 of the Central Excise Act, that seeking extraordinary constitutional relief under Article 32 of the Constitution was premature, where the same was sought on the grounds that petitioner had alleged that officers conducting a search at the residence of his ex-wife had threatened arrest unless the petitioner complied with their demands. The Court held that the petitioner should have pursued the remedy under law only when any positive action was taken to his prejudice.

44.1. Therefore, the learned ASG, relying on the above, argued that the petitioner herein cannot seek a similar relief under Article 226 of the Constitution, as no action prejudicial to the petitioner has yet been taken. The summons issued under

Section 50 of the PMLA were lawful and aimed at gathering evidence and records for the investigation under the Act. Therefore, the petition should be dismissed as premature.

45. The High Court of Kerala in **C M Raveendran v. Union of India (2020) SCC OnLine Ker 7335** reaffirmed the above ratio, stating that no cause of action arises merely because a person is called upon to state the truth or make a statement and produce documents. The Court further held that any apprehension of being coerced into giving a statement based on repeated issuance of summons is not a valid ground to seek constitutional relief under Article 226.

46. In the case of **Union of India & Anr. v. Kunisetty Satyanarayana (2006) 12 SCC 28**, the Hon'ble Supreme Court dismissed a challenge against the framing of charges in a disciplinary action initiated by the postal department against the petitioner, who was accused of submitting a forged 'scheduled tribe' caste certificate. The Court observed that a writ petition does not lie against a charge-sheet or show-cause notice, as it does not give rise to a cause of action. The Court stated that a writ petition can only be filed when a final order, affecting the rights of the party, is passed.

47. In **Virbhadra Singh & Anr. v. Enforcement Directorate & Anr. (2017) SCC OnLine Del 8930**, where the summons issued under Section 50 of the PMLA were challenged, and one of the petitioners therein claimed to have been illegally detained and tortured into making false statements, the High Court of Delhi ruled that enforcement officers have the authority to summon and examine any person for investigative purposes. The Court stated that a person summoned under Section 50 is not necessarily an accused at that time; they may become an accused later if arrested or prosecuted. It further held that no one can avoid responding to a summons simply because of the apprehension that they might be prosecuted in the future.

48. In the case of **Raghav Bahl v. Enforcement Directorate (WP (Crl.) No.2392/2021)**, the Delhi High Court referred to the above case and also to case *Kirit Shrimankar (supra)*. It concluded that there was no violation of the petitioner's fundamental or legal rights that would warrant intervention by the writ court at the summons stage.

49. In the case of **State of Gujarat v. Choodamani Parmeshwaran Iyer, (2023) SCC OnLine SC 1043**, the Hon'ble Supreme Court dealt with a challenge to summons under Section 145 of the Central Excise Act and Section 69 of the Goods and Services Tax Act. The petitioners argued that they were summoned due to suspected tax evasion and apprehended arrest. The Court held that those summoned must appear before the authorities for questioning and that the High Court's writ jurisdiction cannot be invoked at the summons stage to seek anticipatory bail.

50. In **Directorate of Enforcement v. State of Tamil Nadu (SLP (Crl.) No.1959-1963/2024)**, the Supreme Court clarified that under Section 50 of PMLA, authorized officers have the power to summon anyone whose attendance is necessary to give evidence or produce records for investigation. Those summoned are required to comply with the same.

51. In **Talib Hassan Darvesh v. Directorate of Enforcement, (2024) SCC OnLine Del 1811**, the Delhi High Court rejected a challenge to summons issued by the Enforcement Directorate (ED) on the grounds that the summons were vague. The petitioner had argued that the summons did not specify their status as a witness or suspect and did not mention the documents required. The Court held that the ED could issue summons without specifying the exact documents, as they are authorized to investigate and issue summons under PMLA. It further ruled that protection from summons cannot be granted unless the petitioner is absolved in the predicate offence through discharge, acquittal, or quashing, in line with the statutory rigours of Section 45 of PMLA.

52. In **Moloy Ghatak v. Directorate of Enforcement (2023) SCC OnLine 7443**, the Delhi High Court addressed a challenge to repeated summons issued to a petitioner who was not yet an accused in the predicate offence. The Court found the petitioner's request to quash the Enforcement Case Information Report (ECIR) premature, because the ECIR was not provided for review, and the petitioner himself was uncertain about his status. The ED confirmed that the petitioner was not an accused at the time of the summons and had not been summoned for prosecution purposes.

53. In the present case, summons under Section 50 were issued following the 'illegal' search and seizure conducted under Section 17 of the PMLA. However, as established in the preceding paragraphs, the reasons recorded for the search do not satisfy the essential elements required to establish the commission of an offence under Section 3 of the PMLA. As a result, the search and seizure lacked proper authority for there being no proper reason to warrant such a search. The respondent-Agency can summon any person to record a statement or produce a document or record only in cases where there is credible evidence that an offence under Section 3 of PMLA has been committed, and in such circumstances, the person who has been summoned cannot raise any grievance against the issuance of summons.

54. Thus, in light of the circumstances of this case, where no prima facie case has been established showing that an offence has been committed under the PMLA, and no incriminating material has been elicited at the time of search and seizure, the issuance of summons to the petitioner lacks legal authority. The petitioners cannot be compelled to appear and record their statements or produce documents, as such actions would unjustly infringe upon their personal right to liberty."

(Emphasis supplied)

The coordinate Bench holds that for a summons under Section 50 which is followed by a search and seizure in the case therein under Section 17 of the Act, where no *prima facie* case has been established showing that an offence has been committed under the Act or no incriminating material has been elicited at the time of

search and seizure, issuance of summons to the petitioner lacks legal authority.

12. The petitioner, in the case at hand, is on a far better footing. The petitioner therein was earlier working as Commissioner in MUDA when the allotment of sites had happened in favour of accused No.2. The present petitioner does not even know what has happened in MUDA. He comes into the picture only in the year 2023. Therefore, there is no *prima facie* case made out by the Enforcement Directorate to summon the petitioner and not stopping at summons, taking entire financial credentials of the petitioner, his family members, his close or distant relatives is undoubtedly violative of petitioner's right to life.

13. If it was a summons simpliciter as obtaining under Section 41A of the Cr.P.C. or Section 35(3) of BNSS, it would have been a circumstance altogether different. A *caveat*, this finding would not become applicable to every case. The Enforcement Directorate is entitled to summon and enquire into the matter. In the peculiar facts of the case where the petitioner is nowhere

involved in the incidents that have happened 15 years prior to his becoming the Minister, answering the summons and answering the questionnaire to the summons would undoubtedly become an action not sanctioned in law. Above all, the coordinate Bench considers the very issue of challenge to the summons by a person who is not an accused, but had some role to play in the allotment of sites which forms the fulcrum of crime in Crime No.11 of 2024. The petitioner is nowhere. Therefore, ECIR registered against the petitioner is undoubtedly contrary to law.

14. For the aforesaid reasons, the following:

ORDER

- (i) Criminal Petition is allowed.
- (ii) Enforcement Case Information Report in F.No. BGZO/25/2024 issued against the petitioner by the respondent stands quashed.
- (iii) All consequential actions, including summons issued, pursuant to the registration of ECIR are also obliterated.

Consequently, pending applications if any, also stand disposed.

**SD/-
(M.NAGAPRASANNA)
JUDGE**

Bkp
CT:MJ