



White Collar Crimes Updates

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Introduction

India is witnessing significant changes in the way white-collar crimes are investigated and prosecuted. Expanding investigative powers, growing financial complexity, and a more active judicial role have all contributed to defining the limits of economic offence prosecution. As businesses operate in a more regulated environment and financial systems become more sophisticated, enforcement agencies and courts are now more closely examining how economic crimes are investigated, prosecuted, and adjudicated.

Over the past few years, enforcement agencies have intensified their actions across sectors such as banking, infrastructure, gaming, public procurement, and corporate governance. This shift has reshaped how evidence is gathered, assets are attached, and culpability is assessed, bringing renewed attention to statutory frameworks like the Prevention of Money Laundering Act, 2002 (“PMLA”), Prevention of Corruption Act, 1988 (“PC Act”), Insolvency and Bankruptcy Code, 2016 (“IBC”), and Bharatiya Nagarik Suraksha Sanhita, 2023 (“BNSS”).

The Courts have clarified the scope of powers under PMLA, especially regarding provisional attachment, search and seizure, pre-cognizance hearings, and the threshold for taking cognizance, while balancing these powers against constitutional guarantees. At the same time, Courts have also reiterated that although economic offences are serious, investigations must remain fair, proportionate, and compliant with statutory protections. Issues such as the independence of sanction requirements, the role of supplementary complaints, and the evidentiary standards necessary to sustain corruption charges have all received close judicial attention.

This period has also seen a steady rise in high-value investigations involving large corporate loan defaults, offshore fund flows, stock market gains from tainted assets, and allegations of public corruption. Matters concerning the freezing and unfreezing of bank accounts, the validity of summons, the interplay between Code of Criminal Procedure, 1973 (“CrPC”) seizure powers and PC Act attachment, and the right to a speedy trial have been central to how white collar crimes are being handled. These developments illustrate how enforcement priorities, procedural requirements, and judicial scrutiny continue to evolve in response to emerging forms of financial misconduct.



OCTOBER

Coal block allocation by deceit constitutes “property” under PMLA

Setting aside the order of a Single Judge bench that quashed the ED’s Provisional Attachment Order against Prakash Industries Ltd., the Division Bench of the Delhi High Court has ruled that under Section 2(1)(v) of the PMLA, a coal block allocation letter would constitute “property”, legalizing the attachment of assets by the ED equivalent to the value of the coal extracted.

The Single Judge had previously ruled that the allocation letter itself could not be construed as “property” or “proceeds of crime”, restricting the scope of the inquiry to events occurring prior to the allocation date of September 4, 2003. Reversing this finding, the Division Bench ruled that the definition of “property” under the PMLA is expansive, encompassing every description of assets and includes intangible rights.

The Court reasoned that the allocation letter conferred a valuable right to obtain a mining lease and extract coal, serving as the foundation for generating substantial financial gains. Consequently, the coal extracted and the revenue generated constitute the “proceeds of crime” under Section 2(1)(u) because they were derived as a result of criminal activity relating to a scheduled offence. The Court rejected the Single Judge’s finding that the ED’s jurisdiction was limited to the pre-allocation period. Citing the continuing nature of money laundering offences, the Court held that the initial illegality of obtaining the allocation through fraud broke the chain of legitimate financial transactions.

Case Title: *Directorate of Enforcement v. Hi-Tech Mercantile India Pvt. Ltd. & Ors.*
(17.10.2025 - DELHC): MANU/DE/8021/2025

Section 32A of the IBC prevails over provisional attachment under PMLA

The National Company Law Appellate Tribunal (“NCLAT”), New Delhi, ruling in favour of the Successful Resolution Applicant (SRA), Vantage Point Asset Management Pvt. Ltd., held that provisional attachments made under the PMLA by the ED would cease to exist once a Resolution Plan comes into existence.



The decision has set aside the ruling of the National Company Law Tribunal (“NCLT”), which had ordered the SRA to approach the relevant authorities under the PMLA seeking the release of the properties attached by the ED.

The NCLAT, New Delhi, placed reliance on the Supreme Court’s ruling in *Manish Kumar v. Union of India*, ruling that the approval of the Resolution Plan was the trigger event for the immunity. The Tribunal clarified that under Section 32A, it is mandatory that the liability of the Corporate Debtor for prior offences ceases upon a change in management to an unrelated party.

Case Title: *Vantage Point Asset Management (P) Ltd. v. Gaurav Misra, 2025 SCC OnLine NCLAT 1652*

Supreme Court refuses to quash PMLA proceedings against JSW, cites pending Tribunal appeal

The Supreme Court, while dismissing the appeals filed by JSW Steel Limited and its official, declined to quash the cognizance order passed by the Special Court under the PMLA. The Court held that since the appellants have already availed of the statutory remedy by filing an appeal before the PMLA Appellate Tribunal under Section 26, judicial interference at this stage would be premature. The Bench emphasized that the PMLA provides a complete and self-contained adjudicatory framework comprising Provisional Attachment (Section 5), Adjudication (Section 8), and Appeal (Section 26), and issues regarding the characterization of funds must be decided within this framework.

JSW argued that in the absence of a live predicate offence, the PMLA proceedings could not be sustained, relying on the Vijay Madanlal Choudhary judgment. The Supreme Court, however, distinguished the matter, noting that the Enforcement Directorate’s (“ED”) action was specifically confined to the recovery of the attached Rs. 33.80 crore. The Court, however, reasoned that whether the specific sum represents proceeds of crime and whether the post-attachment withdrawals constituted an offence are factual disputes which would fall squarely within the domain of the Appellate Tribunal.



Consequently, the Court refused to intervene, ordering the parties to pursue their statutory appeals before the Tribunal.

Case Title: *JSW Steel Ltd. v. Enforcement Directorate, 2025 SCC OnLine SC 2150*

Prior sanction for prosecution under PMLA not needed if the offence is not related to official act

The Jaipur Bench of the Rajasthan High Court has rejected a revision petition filed by a public servant, which challenged the cognizance taken against him under Sections 3 and 4 of the PMLA. The petitioner seeking to set aside the order of the Special Judge, PMLA, contended that the court was barred from taking cognizance in the absence of a previous prosecution sanction under Section 218 of the BNSS.

ED opposed the plea, arguing that a search had yielded approximately Rs. 2.31 crore in cash and a gold bar worth Rs. 61 lakh from the petitioner's possession and possessing such unaccounted wealth could not be categorized as an act performed in the official discharge of duties. Upholding the ED's submission, the High Court ruled that the alleged act of possessing huge sums of unexplained cash and gold does not fall within the purview of "an act performed in official discharge of duties". Consequently, the Court held that it was not incumbent upon the investigating agency to obtain a previous sanction to prosecute the petitioner in these circumstances.

Case Title: *Ved Prakash Yadav v. Directorate of Enforcement, 2025:RJ-JP:41601*



NOVEMBER

“Search is not accused-specific”: ED’s powers under Section 17 reaffirmed

In an appeal filed by the ED under Section 42 of the PMLA, the Delhi High Court considered whether a search and seizure carried out under Section 17 of the PMLA at the property of a third party against whom no independent prosecution complaint had been filed at the time of the search was lawful. For the sole reason that there was no prosecution case against the individual whose property was searched, the Appellate Tribunal, PMLA, has overturned the Adjudicating Authority’s ruling confirming the retention of confiscated material under Section 17(4). Because the Tribunal went beyond the narrow scope of appeal and relied on an issue that the respondent had not even raised, the High Court determined that this approach was legally untenable.

The High Court explained that a search and seizure under the PMLA is not limited to the locations of individuals listed as accused in a prosecution complaint by interpreting the scheme of Section 17. The statutory prerequisite for the exercise of powers under Section 17 is satisfied once there is a prosecution complaint on the planned offense or money laundering. Regardless of whether the individual is identified in the complaint or not, the clause allows a search of the property of “any person” who is in possession of proceeds of crime, documents pertaining to money laundering, or property associated with such an offense. The Court set aside the contested ruling and remanded the case for fresh adjudication on merits, finding that the Tribunal had misinterpreted the statutory context.

Case Title: *Deputy Director, Directorate of Enforcement v. Amlendu Pandey (21.11.2025 - DELHC): MANU/DE/8943/2025*

Cognizance once taken suffices; no pre-cognizance hearing mandated for supplementary PMLA complaints

The Madras High Court dismissed a criminal revision contesting the filing of a second supplementary prosecution complaint under the PMLA and held that when cognizance of the offence has already been taken on the main prosecution complaint, no new pre-cognizance hearing is necessary.



According to the proviso to Section 223(1) of the BNSS, the petitioner argued that the order issuing process against him was invalid due to the lack of a pre-cognizance hearing. Rejecting this argument, the Court reaffirmed the well-established rule that once cognizance is taken for the first time, it cannot be renewed upon each subsequent complaint and that cognizance is taken of the offense rather than the perpetrator.

The Court decided, based on Explanation (ii) to Section 44 of the PMLA, that a supplementary prosecution complaint is considered to be a part and parcel of the original complaint and only records further evidence or more accused resulting from further inquiry. As a result, the pre-cognizance hearing requirement is only applicable at the initial step of taking cognizance of the offense; it does not apply to future supplemental complaints. The Court further determined that the extra complaint in this case was not based on stale material but rather on new information, such as the SFIO complaint, which constituted a new scheduled offense. The High Court upheld the trial court's ruling, concluding that requiring a new pre-cognizance hearing at each additional stage would be unlawful and needlessly prolong the PMLA proceedings.

Case Title: *Rahul Surana v. Enforcement Directorate, 2025 SCC OnLine Mad 10009*

Pre-cognizance hearing under BNSS is mandatory even for PMLA complaints

The Patna High Court overturned an order of cognizance issued by the Special Court (PMLA) and ruled that a pre-cognizance hearing for the accused is required for complaints filed under the PMLA, following the implementation of the BNSS. The petitioner contested the cognizance order on the grounds that it violated the first proviso of Section 223(1) of the BNSS since it was issued without giving him a chance to be heard. Relying on the ruling in *Kushal Kumar Agrawal v. Directorate of Enforcement, 2025 SCC OnLine SC 1221*, in which the Supreme Court held that complaints filed under Section 44 of the PMLA are subject to Sections 223 to 226 of the BNSS and that the requirement of a pre-cognizance hearing is a substantive statutory right rather than merely a procedural formality.



The High Court ruled that statutory rights are independent of future judicial interpretation, rejecting the Directorate of Enforcement's claim that the protection could not be applied because cognizance was taken before the Supreme Court's decision in *Kushal Kumar Agrawal*. Judicial interpretation only serves to clarify the law's actual reach; the law as enacted takes effect on that date. The Court additionally concluded that the denial of a statutory pre-cognizance hearing cannot be considered as a simple irregularity requiring proof of prejudice, nor can it be remedied by earlier opportunities during the inquiry or by a hearing at the stage of drafting charges. After giving the petitioner a hearing in accordance with Section 223(1) of the BNSS, the order taking cognizance was set aside, and the case was remanded to the Special Court, PMLA, for additional review.

Case Title: *Pushpraj Bajaj v. Union of India & Ors., 2025 SCC OnLine Pat 3148*

Any growth or profit made from investing bribe money is considered “proceeds of crime”

The Delhi High Court held that any growth or profit made from investing bribe money, including gains from the stock market, is considered “proceeds of crime” and is subject to attachment under the PMLA. The Division Bench upheld the ED's appeals, ruling that the initial taint of illegality cannot be removed by further investments of illicit assets through legitimate channels. The Court noted that if a bribe sum is invested in stocks, real estate, or any other asset and then increases in value as a result of business actions or market forces, the entire increased value is still inextricably linked to the initial unlawful transaction and is so attachable. The Court noted that money laundering involves more than just the initial acquisition of tainted money; it also involves the layering, integration, and presentation of tainted money as unadulterated riches, highlighting the ongoing nature of the crime.

The Court maintained the ED's authority to attach properties worth Rs. 122.74 crore resulting from disproportionate financial gains, overturning the Single Judge's ruling that had invalidated the Provisional Attachment ruling. According to Section 2(1)(u) of the PMLA, the Bench determined that an allocation letter granting exclusive commercial benefit qualifies as “intangible property” and that deception to get such an allocation amounted to criminal behaviour generating proceeds of crime.



The Court observed that the illicit earnings linked to the tainted origin are nevertheless attachable even if later use of the property takes place through properly structured transactions and without a separate predicate offense. The Court further emphasized that the PMLA framework adequately protects natural justice principles through its multi-tiered statutory remedies and that provisional attachment is an interim remedy susceptible to adjudication.

Case Title: *Enforcement Directorate v. Prakash Industries Ltd., 2025 SCC OnLine Del 8243*



DECEMBER

Section 102 CrPC seizure powers and Section 18A PC Act attachment can operate concurrently

The Supreme Court in a recent judgment clarified the interplay between police powers under Section 102 of the CrPC and attachment powers under Section 18A of the PC Act, holding they are not mutually exclusive. The issue arose from an appeal by the State of West Bengal against a Calcutta High Court order de-freezing certain bank accounts that had been seized during an anti-corruption investigation against a Sub-Inspector accused of amassing disproportionate assets.

The High Court had relied on precedent holding the PC Act is a “complete code”, concluding that only Section 18A attachment should apply and that Section 102 CrPC could not be used to freeze bank accounts. The Supreme Court disagreed, explaining that seizure under the CrPC and attachment under the PC Act serve different investigatory and judicial functions, and both can be exercised independently where circumstances warrant. It emphasized that Section 102 is an immediate investigative tool to secure evidence or property during an inquiry, whereas Section 18A involves a sequential judicial process for adjudicative attachment. The Court held that refusal to recognize concurrent powers would unduly handicap law enforcement and that rigid exclusivity was not intended by the legislative scheme of the PC Act or CrPC.

Case Title: *State of W.B. v. Anil Kumar Dey, 2025 SCC OnLine SC 2753*

Washing hands of complainant and accused, sealing of bribe at spot necessary for sanctity of trap proceedings

The Allahabad High Court addressed procedural sanctity in corruption trap cases under the PC Act. The petitioner, a Labour Enforcement Officer accused under Section 7 of the PC Act for allegedly demanding and receiving a bribe, sought bail, challenging investigative procedures.



The Court observed significant procedural lapses: the wash-hands test for the accused and complainant, sealing of alleged bribe money, and preparation of the recovery memo were all conducted at the police station, not at the spot of the trap, diluting the credibility of trap proceedings. It held that these acts of washing hands and sealing bribe cash should be done at the scene of the trap to preserve the chain of custody and evidentiary reliability, and routine police station practices risk undermining prosecution evidence. Taking note of systemic investigative shortcomings, the bench granted bail, emphasizing that procedural irregularities cast doubt on the trap's authenticity and thus on the prosecution's prima facie case. The Court directed the Principal Secretary (Home), Government of Uttar Pradesh, and the DGP to issue comprehensive directions mandating on-spot wash-hands and sealing procedures in future PC Act traps.

Case Title: *Suresh Prakash Gautam v. State of U.P., 2025 AHC 215505*

Delhi Court refuses to take cognizance of prosecution complaint in National Herald Case

In proceedings arising from the National Herald money laundering investigation, the Rouse Avenue Court in Delhi refused to take cognizance of the ED's prosecution complaint against Sonia Gandhi, Rahul Gandhi, and others, holding that the complaint lacked the requisite procedural foundation. The case stems from a long-running money laundering probe linked to the acquisition and alleged misuse of assets of Associated Journals Ltd. (National Herald) and Young Indian, with a complaint originally initiated on a private complaint basis.

The Court observed that ED's case was built on a private complaint rather than a formal FIR/ECIR and emphasized that proper statutory procedures had not been satisfied to proceed to the cognizance stage. Earlier in the year, the court had refused to issue notices to the accused, noting that the ED's complaint contained documentary deficiencies and directing the agency to cure those gaps before further steps.

Case Title: *Directorate of Enforcement v. Sonia Gandhi & Ors.*



Proof of demand and acceptance of illegal gratification is sine qua non to establish guilt

The Delhi High Court set aside the criminal proceedings against a public servant accused of demanding and accepting illegal gratification in connection with the renewal of a factory licence, holding that the prosecution failed to establish essential elements of the offence under the PC Act. The petition challenged a trap/anti-corruption investigation alleging that the respondent, a public official, had demanded illegal gratification to renew the petitioner's factory licence, a statutory requirement under municipal/industrial law, and that the prosecution's case hinged on this alleged demand.

The Court underscored that mere recovery of money or an assertion of payment alone could not substitute for proof of the foundational elements: (i) demand of illegal gratification, (ii) voluntary acceptance by the public servant, and (iii) causal connection between the alleged demand and any official act. It found that the prosecution had not proved the demand beyond a reasonable doubt, nor had it demonstrated that any payment was made in response to a specific demand tied to the licence renewal process; evidence was insufficient to establish the statutory presumption of corruption.

In doing so, the High Court applied settled principles that the burden lies on the prosecution to prove each constituent element of corruption and that speculative or weak evidence cannot sustain criminal liability under Sections 7 and 13 of the PC Act.

Case Title: *Suresh Kumar Gupta v. State (NCT of Delhi)*, 2025 SCC OnLine Del 8872



JANUARY

ED arrests RCOM ex-director in Rs. 40,000 crore bank fraud

The ED arrested Punit Garg, the former director of Reliance Communications Ltd. (RCOM), under the PMLA in connection with a massive bank fraud case involving over Rs. 40,000 crore. The investigation revealed that Garg allegedly diverted “proceeds of crime” to offshore entities and utilized these funds for personal benefits, including financing his children’s overseas education.

Further probing disclosed that Garg fraudulently sold a luxury condominium in Manhattan, New York, worth USD 8.3 million and siphoned the sale proceeds to a Dubai-based entity to avoid detection. The Special Court (PMLA) at Rouse Avenue granted the ED nine days of custody to further interrogate Garg and trace the complex money trail involved in one of India’s largest corporate loan defaults.

Adani Power in focus as NCLAT clears Rs. 4,000 crore Vidarbha Power acquisition

The NCLAT has upheld the NCLT’s approval of Adani Power’s Rs. 4,000 crore resolution plan for Vidarbha Industries Power Limited, dismissing appeals from Western Coalfields and employee representatives. The appellants argued that the plan was approved after the expiry of the 180-day CIRP deadline and unfairly distributed proceeds among creditors. However, the NCLAT ruled that the Committee of Creditors had approved the plan within the statutory period, and the subsequent filing with the NCLT did not violate timelines.

Regarding the distribution of funds, the NCLAT relied on the Supreme Court’s *Essar Steel India Limited v. Satish Kumar Gupta & Ors. (2019) 8 SCC 531*, reaffirming that “equitable treatment” does not mean equal pay for all classes of creditors. The tribunal noted that the liquidation value of operational creditors was nil, and therefore, the payout structure, which heavily favoured financial creditors, did not violate Section 30(2)(b) of the IBC. This decision clears the path for Adani Power to acquire the 600 MW thermal power plant in Nagpur, consolidating its position as India’s largest private thermal power producer.



Case Title: *Western Coalfields Ltd. v. Bimal Kumar Agarwal, (RP of Vidarbha Industries Power Ltd.)* 6 Ors.

Karnataka High Court slams ED over “tentative instructions” in WinZO subsidiary’s plea for release of salaries

The Karnataka High Court instructed the subsidiary of gaming company WinZo, Zo Private Limited, to provide information about its employees to the Enforcement Directorate. The ED submitted a prosecution complaint against WinZO and its subsidiaries (such as ZO Pvt. Ltd.), claiming a Rs. 734 crore gaming scam involving bots, while reviewing the company’s temporary request to unfreeze its account for paying employee salaries. The Court was considering Zo Private Limited’s petition regarding the ED’s freeze of the Rs. 193 crore account.

Case Title: *Zo Private Limited v. Enforcement Directorate, WP No. 962/2026 (GM - RES)*

Right to speedy trial overrides Section 45 PMLA rigours

Reaffirming the primacy of fundamental rights, the Supreme Court held that prolonged pre-trial incarceration under the PMLA violates Article 21 of the Constitution of India, overriding the statutory rigours of Section 45. The Court observed that where there is no realistic prospect of the trial concluding in the near future, the accused cannot be kept behind bars indefinitely, regardless of the gravity of the economic offence.

The Court set aside the High Court’s directive and granted bail, determining that economic crimes cannot be considered a uniform category justifying a blanket refusal of bail when the right to a speedy trial is at stake. This ruling establishes an important precedent, indicating that the “twin conditions” for bail under the PMLA must be set aside when the state does not guarantee a prompt judicial process.

Case Title: *Arvind Dham v. Directorate of Enforcement, 2026 SCC OnLine SC 30*



Delhi Court acquits Arvind Kejriwal in ED summons case

In a major reprieve for the former Chief Minister of Delhi, the Rouse Avenue Court cleared Arvind Kejriwal in two cases brought by the ED for allegedly avoiding summons related to the investigation into the Delhi Excise Policy. Additional Chief Judicial Magistrate Paras Dalal stated that the ED did not prove that the summonses were served legally, observing that service through email is not an acceptable method recognized under the CrPC or PMLA for these types of proceedings.

The Court held that “mere non-appearance” does not amount to intentional disobedience under Section 174 of the IPC, and the ED’s complaints did not disclose sufficient incriminating material to sustain the charge of non-compliance. The Magistrate emphasized that the ED cannot devise its own procedure for serving summonses and must strictly adhere to the statutory framework, thereby acquitting Kejriwal on these procedural grounds.

Case Title: *Directorate of Enforcement v. Kejriwal, Ct. Cases No. 04 of 2024 (Rouse Avenue Dist. Ct., New Delhi, Jan. 22, 2026) (India)*



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