



MAJESTY LEGAL
Advocates & Solicitors

**SUPREME COURT STRONGLY CRITICIZES ED FOR MISUSING PMLA TO PROLONG ACCUSED'S
DETENTION**

"ARUN KUMAR TRIPATHI V. DIRECTORATE OF ENFORCEMENT"

Hon'ble Supreme Court, in case of *Arun Kumar Tripathi v. Directorate of Enforcement*¹ strongly criticized the Enforcement Directorate (ED) for allegedly misusing the Prevention of Money Laundering Act (PMLA) to keep an accused in jail, drawing a parallel to concerns raised about the misuse of the dowry law.

Appellant was arrested on August 8, 2024, in connection with ECIR/RPZO/04/2024 under the PMLA, 2002. A supplementary complaint was filed against him on October 5, 2024, and the Special Court took cognizance of the complaint the same day. However, the appellant challenged this order before the High Court, which, in its judgment dated February 7, 2025, quashed the cognizance order due to the lack of proper sanction and directed the authorities to obtain the necessary approval before proceeding further.

Expressing surprise, Hon'ble Supreme Court questioned how the accused continued to remain in custody even after the Chhattisgarh High Court had quashed the order taking cognizance. Given that the previous order was invalidated, there was no legal basis for his continued detention. Hon'ble Apex Court reaffirmed that no individual can be held in custody indefinitely if the complaint's cognizance is legally flawed, emphasizing the importance of procedural safeguards and judicial scrutiny in money laundering cases.

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¹ CRIMINAL APPEAL NO.725 OF2025

² Majesty legal is a LAW FIRM established in 2013 by Ms. Mahi Yadav. Objective of this legal update is to provide insights on law, statutes and is personal in nature, not to be deemed as legal advice.



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.725 OF 2025
(ARISING FROM PETITION FOR SPECIAL LEAVE TO APPEAL (CRIMINAL) NO.
16219 OF 2024)

ARUN PATI TRIPATHI

APPELLANT

VERSUS

DIRECTORATE OF ENFORCEMENT

RESPONDENT(S)

O R D E R

Leave granted.

2. In connection with ECIR/RPZO/04/2024, the appellant was arrested on 8th August, 2024. A supplementary complaint under Section 44 of the Prevention of Money Laundering Act, 2002 (for short, 'PMLA') was filed naming the appellant as an accused on 5th October, 2024. Cognizance was taken by the Special Court on 5th October, 2024 itself. The order taking cognizance was challenged by the appellant before the High Court. The High Court by judgment dated 7th February, 2025 has set aside the cognizance order and has granted liberty to the respondent to proceed again after obtaining a sanction. Thereafter, an application has been moved by the respondent before the Special Court for taking cognizance by relying upon

Sanction granted on 6th February, 2025.

Signature Not Verified
Digitally signed by
JAGDISH KUMAR
Date: 2025.02.13
17:47:25 IST
Reason: 37

As of today, the position is that though complaint was filed on 5th October 2024, an order taking cognizance is not in existence. The respondent has acted upon order dated 7th

February, 2025 by making application dated 7th February, 2025 before the Special Court, requesting the Court to take cognizance. Now, the Special Court will have to examine the case again. As there is a sanction, the issue to be considered will be whether the sanction is valid. All this will have to be examined by the Special Court.

4. Appellant is in custody from 8th August, 2024. Order taking cognizance passed by the Special Court has been set aside by the High Court and by acting upon the order of the High Court, a fresh application has been moved by the respondent for taking cognizance. The said application is yet to be heard by the Special Court.

5. In view of these peculiar facts, custody of the appellant cannot be continued. As there are serious allegations against the appellant, appropriate stringent terms and conditions can be imposed by the Special Court. We direct the respondent to produce the appellant before the Special Court within a period of one week from today. The Special Court shall enlarge the appellant on bail, pending the complaint, subject to stringent terms and conditions, including the condition of surrender of passport. Another condition will be of appellant furnishing undertaking to the Special Court stating that, in case, cognizance of the complaint is taken, he will regularly and punctually attend the Special Court and shall cooperate with the Special Court for the early disposal of the case. In the event, it is found that, the appellant is not cooperating

with the Special Court, it will be open for respondent to apply for cancellation of bail.

6. In view of the above, the appeal stands allowed.

7. Pending application(s), if any, stands disposed of.

.....J.
[ABHAY S. OKA}

.....J.
[UJJAL BHUYAN]

New Delhi
Dated; 12th February, 2025

ITEM NO.8

COURT NO.4

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 16219/2024

[Arising out of impugned final judgment and order dated 25-10-2024 in MCRC No. 6598/2024 passed by the High Court of Chhatisgarh at Bilaspur]

ARUN PATI TRIPATHI

Petitioner(s)

VERSUS

DIRECTORATE OF ENFORCEMENT

Respondent(s)

IA No.268772/2024-PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

WITH

SLP(Crl) No. 795/2025 (II-C)

IA No. 14470/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 14471/2025 - EXEMPTION FROM FILING O.T.

IA No. 14767/2025 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

Date : 12-02-2025 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) :Ms. Meenakshi Arora, Sr. Adv.
Mr. Shishir Prakash, Adv.
Ms. Karuna Krishan Thareja, Adv.
Mr. Mohit D. Ram, AOR
Ms. Nanakey Kalra, Adv.
Mr. Anubhav Sharma, Adv.
Ms. Nayan Gupta, Adv.

Mr. Siddhartha Dave, Sr. Adv.
Ms. Pallavi Sharma, AOR
Mr. Harshwardhan Parganiha, Adv.
Mr. Anshul Rai, Adv.
Mr. Ravilochan Dalioarthi, Adv.
Mr. Harshit Sharma, Adv.
Ms. Tanisha Kaushal, Adv.

For Respondent(s) :Mr. Suryaprakash V.raju, A.S.G.
Mr. Zoheb Hossain, Adv.
Mr. Annam Venkatesh, Adv.
Mr. Chandra Prakash, Adv.
Mr. Hitarth Raja, Adv.
Mr. Arvind Kumar Sharma, AOR
Ms. Aakriti Mishra, Adv.
Ms. Aditi Singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R

CRIMINAL APPEAL NO.725 OF 2025 @ SLP (CRL.) NO.16219/2024

Leave granted.

2. The appeal is allowed in terms of the signed order which is placed on the file. The operative part of the signed order reads as follows:-

"5. In view of these peculiar facts, custody of the appellant cannot be continued. As there are serious allegations against the appellant, appropriate stringent terms and conditions can be imposed by the Special Court. We direct the respondent to produce the appellant before the Special Court within a period of one week from today. The Special Court shall enlarge the appellant on bail, pending the complaint, subject to stringent terms and conditions, including the condition of surrender of passport. Another condition will be of appellant furnishing undertaking to the Special Court stating that, in case, cognizance of the complaint is taken, he will regularly and punctually attend the Special Court and shall cooperate with the Special Court for the early disposal of the case. In the event, it is found that, the appellant is not cooperating with the Special Court, it will be open for respondent to apply for cancellation of bail.

3. Pending application(s), if any, stands disposed of.

SLP(CRIMINAL) No.795/2025

Petitioner is granted three weeks time to file counter affidavit.

2. Learned counsel for the petitioner states that the petitioner does not desire to file rejoinder affidavit.

3. List the matter on 18th March, 2025.

(JAGDISH KUMAR)
COURT MASTER

(AVGV RAMU)
COURT MASTER (NSH)