

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2942 of 2025

Arising Out of PS. Case No.-13 Year-2025 Thana- E.C.I.R (GOVERNMENT OFFICIAL)
District- Patna

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Rishu Shree S/O Sh. Vinod Kumar Sinha R/O 5A, Kamtaramsakhil Enclave,
Mithapur Khagaul Road, Beside Dayanand Boys School, Mithapur Patna, P.S-
Jakkanpur, Distt.- Patna, Bihar.

... .. Petitioner

Versus

1. The Union of India through its Secretary, Legislative Department, Ministry of Law and Justice 4th floor, A- Wing, Shashtri Bhawan, New Delhi-110001.
2. The Directorate of Enforcement, through its Assistant Director Government of India, Patna Zonal Office, 1st Floor, Chandpura Place, Bank Road, Patna, Bihar- 800001.
3. Aman Saxena (Deputy Director) R/O The Directorate of Enforcement, Government of India, Patna Zonal Office, 1st Floor, Chandpura Place, Bank Road, Patna, Bihar- 800001.
4. Bhoopesh (Assistant Director) R/O the Directorate of Enforcement, Government of India, Patna Zonal Office, 1st Floor, Chandpura Place, Bank Road, Patna, Bihar- 800001.
5. The State of Bihar through the Superintendent of Police, Special Vigilance Unit, Patna, Bihar. Office at- Vigilance Department, 4th Floor, Suchana Bhawan, Bailey Road, Patna- 800015, Bihar.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Mukul Rohatgi, Sr. Adv. Ms. Nandita Rao, Sr. Adv. Mr. Arshdeep Khurana, Adv. Mr. Akhand Pratap Singh, Adv. Mr. Kumaresh Singh, Adv. Mr. Ujjwal Raj, Adv. Ms. Manavi Tyagi, Adv. Mr. Divyodit, Adv. Ms. Shruti, Adv. Ms. Tanavi Sharma, Adv. Mr. Sidak Singh Anand, Adv. Ms. Khushboo Jain, Adv. Mr. Sahil Kumar, Adv. Mr. Anirvan Choudhuri, Adv.
For the ED	:	Mr. Zohaib Hossain, Special Counsel Mr. Prabhat Kumar Singh, Retainer Counsel Mr. Pranjal Tripathi, Adv. Mr. Raghav Kumar, Adv. Mr. Vishal Kumar Singh, Adv.
For the Vigilance	:	Mr. Arvind Kumar, Spl.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
CAV ORDER

5 11-12-2025

Re: I.A. No. 01 of 2025

The instant interlocutory application has been filed under Article 226 of the Constitution of India read with Section 151 of the Code of Civil Procedure, 1908 (for short 'the Code') for amending the prayer in the main writ application along with amendment in synopsis.

02. Mr. Mukul Rohatgi, learned senior counsel appearing on behalf of the petitioner, submitted that prior to approaching this Court, the petitioner had invoked the jurisdiction of the Hon'ble Supreme Court by filing writ W.P. (Crl.) 411 of 2025, wherein the petitioner, *inter alia*, sought a declaration that Section 50 and Section 63 of Prevention of Money Laundering Act (PMLA), 2002 are *ultra vires* to the Constitution of India and further for quashing of statements recorded and summons issued by the respondent/ED under the said impugned provisions. The Hon'ble Supreme Court, after considering the submissions of the petitioner, was pleased to pass an order dated 17.10.2025, whereby the said writ petition was disposed of, with liberty to raise all contentions before the appropriate forum, i.e., before this High Court. In pursuance to the liberty given by the Hon'ble Supreme Court, vide Order



dated 17.10.2025, the petitioner filed the present writ petition before this Court, seeking the relief as mentioned in Paragraph-1. However, due to inadvertence and paucity of time at the stage of initial filing, the original writ Petition does not contain an express, independent relief clause seeking declaration of Section 50 and 63 of PMLA as *ultra vires* to the Constitution of India. Mr. Rohatgi further submitted that a holistic reading of the synopsis, questions of law and detailed grounds in the petition clearly demonstrate that the petitioner has challenged the constitutional validity and *vires* of Sections 50 and 63 of PMLA, 2002. Mr. Rohatgi further submitted that due to inadvertence and typographical error, the synopsis erroneously describes the present matter as a petition filed under Article 32 of the Constitution of India. However, the cause title and the entirety of the petition consistently reflect it as a petition instituted under Article 226 of Constitution of India. Accordingly, the present petition ought to be read and construed as one instituted under Article 226 of the Constitution of India, and not under Article 32 as incorrectly mentioned in the synopsis. Mr. Rohatgi further submitted that the relevant pleadings in the petition demonstrating the challenge to *vires* of Section 50 and 63 PMLA, the prayer for quashing of statements recorded under



Section 17 and 50 PMLA and the challenge to the summons issued under Section 50 PMLA are already on record. In these circumstances, no prejudice of any nature will be caused to the respondents by allowing the amendments sought through this interlocutory application. The proposed amendments do not introduce any new ground or contention that the respondents have not had the opportunity to meet. The proposed amendment is formal, clarificatory and explanatory and is intended to explicitly articulate a relief already implicit and foundational in the petition. The same does not introduce any new cause of action or factual foundation. Mr. Rohatgi referred to the amendments sought in the case to be added after Para 1(III) in the main writ application, which read as under:

“IV. "Issue a writ of Mandamus, or any other appropriate Writ, Order or Direction, thereby declaring Section 50 and Section 63 of the Prevention of Money Laundering Act, 2002 as ultra vires to the Constitution of India."

V. "Issue a Writ of Mandamus, or any other appropriate Writ, Order or Direction, thereby quashing all the statements of Petitioner dated 16.07.2024, 18.07.2024, 18.09.2024, 20.09.2024, 21.09.2024 and 01.10.2024 recorded by the Respondent/ED as being violative of Article 20 of the Constitution of India."

VI. "Issue a Writ of Mandamus, or any other appropriate Writ, Order or Direction, thereby quashing the summons dated 09.09.2025, 15.09.2025 issued to the Petitioner"



by Respondent no. 2/ ED in ECIR/PTZO/13/2025 being violative of Article of 14 of Constitution of India.

"The inadvertent mention of writ application under Article 32 in the synopsis portion be also allowed to be corrected as writ application under Article 226 of the constitution of India and the same may be read accordingly."

Mr. Rohatgi, lastly, submitted that all amendments which are just and proper and are not *mala fide*, are to be liberally allowed following the settled law under Order 6 Rule 17 of the code and merit of the amendment are not to be looked into at the stage of allowing the amendment. Thus, learned senior counsel submitted that the present interlocutory application be allowed and the petitioner may be allowed to incorporate the amendments in the main writ petition.

03. Mr. Zohaib Hossain, learned Special Counsel appearing on behalf of Directorate of Enforcement, vehemently opposed the submission made on behalf of the petitioner. Mr. Hossain submitted that the instant interlocutory application has been filed by the petitioner to fill-up the lacunae in his case. The answering respondent has taken up the plea of defective filing and the writ petition not being maintainable, thereafter the petitioner has come up with the present interlocutory application. Though, opposing all amendments, Mr. Hossain



specifically assailed the amendment sought for adding prayer for issuance of writ of mandamus, or any other appropriate writ, order or direction, thereby declaring Section 50 and Section 63 of the Prevention of Money Laundering Act, 2002 as *ultra vires* to the Constitution of India. Mr. Hossain further submitted that the Hon'ble Supreme Court, while upholding the vires of the PMLA, including Sections 50 and 63, in ***Vijay Madanlal Choudhary Vs. Union of India, (2023) 12 SCC 1***, has passed an order denuding the High Courts to adjudicate upon those very contentions which now stand conclusively settled. Mr. Hossain referred to the relevant paragraph of the said decision, which reads as under:

“383. These transfer petitions are disposed of with liberty to the private parties to pursue the proceedings pending before the High Court. The contentions, other than dealt with in this judgment, are kept open, to be decided in those proceedings on its own merits. It would be open to the parties to pursue all (other) contentions in those proceedings, except the question of validity and interpretation of the provision(s) concerned already dealt with in this judgment.”

Mr. Hossain, thus, submitted that only those contention which have not been dealt with in the judgment are kept open. Mr. Hossain further submitted that the issue of



challenge to *vires* of Sections 50 and 63 of PMLA, 2002 has already been decided by three Judges' Bench of the Hon'ble Supreme Court in ***Vijay Madanlal Choudhary (supra)*** and this Court can not venture into the matter at the instance of the petitioner challenging the *vires* of Sections 50 and 63 of PMLA. On same proposition, Mr. Hossain, referred another decision of Hon'ble Supreme Court in the case of ***Vijay Bhatia Vs. Union of India & Ors. (Writ Petition (Criminal) No 251 of 2023, decided on 31.05.2023)***, wherein a Division Bench of Hon'ble Supreme Court in Paragraph-4 held as under:

“4. Having said that the Court is constrained to observe that despite the Three-Judge Bench decision in the case of “Vijay Madanlal Choudhary and Others vs. Union of India and Others” (2022 SCC Online SC 929), upholding the vires of various provisions including Sections 50 and 63 of PMLA, a new trend is developed in this Court to file writ petitions under Article 32 of the Constitution of India again challenging the constitutional validity of Sections 50, 63 and other provisions of the PMLA, also seeking consequential reliefs which otherwise would tantamount to by-passing the other alternative efficacious forums available to the petitioners under the law.”



04. Mr. Hossain next referred to the decision in the case of *Y Balaji Vs. Karthik Desari & Anr. (SLP (Crl) 12779-12781/2022, decided on 16.05.2023)* and quoted paragraph-116, which reads as under:

*“116. First of all, we should point out that a notice ordered in the review petition being Review Petition (Crl.) No. 219 of 2022, will not destroy or diminish the precedential value of **Vijay Madanlal Choudhary**. The argument of the learned counsel for the accused, if accepted, will not only destroy the principles of judicial discipline and the doctrine of stare decisis, but also bring to a grinding halt, all pending investigation in the country. In fact, the order dated 25.08.2022 passed in Review Petition (Crl.) No. 219 of 2022 discloses that prima facie the Court was of the view that at least two of the issues raised in the review petition require consideration. Though it is not precisely spelt out in the order, those two issues relate to (i) not providing the accused with a copy of the ECIR; and (ii) reversal of the burden of proof and presumption of innocence. The points that the respondents are canvassing in this case, have nothing to do with those two issues. Therefore, the accused cannot have a piggyback ride on the review petition.”*

Thus, Mr. Hossain submitted that issue regarding



challenge to the *vires* of Sections 50 and 63 stands settled in the case of *Vijay Madanlal Choudhary (supra)*. Any challenge to the same before this Court would destroy the principles of judicial discipline and doctrine of stare decisis. Mr. Hossain also referred to the decision of Hon'ble Supreme Court in the case of *Pinki Singh & Ors. Vs. Union of India & Ors, (Writ Petition (Criminal) No. 219 of 2023, decided on 30.05.2023)*, wherein the decision of *Y Balaji Vs. Karthik Desari & Anr. (supra)* has been quoted with approval. Mr. Hossain further submitted that judicial propriety demands that when an issue has been settled by the Hon'ble Supreme Court, there is no scope for High Court to entertain any matter even if such issue is specifically agitated before it. Further, the Hon'ble Supreme Court declined to entertain the Writ Petition (Crl.) No. 411 of 2025 on the ground that since the lead case, in which *vires* of sections 50 and 63 of the Prevention of Money Laundering Act, 2002 were under challenge, was likely to be taken up for final adjudication in the near future and entertaining fresh writ petition on the same issue would unnecessarily delay the adjudication of the lead case. Mr. Hossain further submitted that while disposing of the writ petition, the Hon'ble Supreme Court relegated the petitioner to raise all his contention before the appropriate forum, i.e., before



this Court, but this liberty cannot be used challenge the *vires* of Section 50 and 63 of PMLA, 2002 and it could only be the incidental proceedings other than those already dealt in the decision of *Vijay Madanlal Choudhary (supra)*. If the Hon'ble Supreme Court is already seized of the matter of challenge to *vires* of Sections 50 and 63 of PMLA, this Court would be exceeding its jurisdiction, if the same issue is allowed to be agitated before it, knowing all these facts.

05. Mr. Hossain reiterated his objection to other amendments as well, submitting that these amendments have been sought only after the counter affidavit of answering respondent came on record.

06. By way of reply, Mr. Rohatgi submitted that when Writ Petition (Crl.) No. 411 of 2025 of the petitioner was disposed of by the Hon'ble Supreme Court, vide order dated 17.10.2025, it granted liberty to the petitioner to raise all his contentions before the appropriate forum and this includes the challenge to the *vires* of Section 50 and 63 of PMLA, 2002. Therefore, the petitioner has been granted liberty to raise all the legal contention before this High Court. Mr. Rohatgi referred to the petition filed before the Hon'ble Supreme Court submitting that the petitioner challenged the *vires* of Sections 50 and 63 of



the PMLA before Hon'ble Supreme Court and pursuant only upon the liberty granted to it vide order dated 17.10.2025 passed in Writ Petition (Crl.) No. 411 of 2025 to raise all the contention before appropriate forum, this prayer has been sought to be incorporated through the present interlocutory application by way of seeking amendment of the prayer in the instant writ petition. Therefore, the contention of the learned Special Counsel is nothing but a ploy to deny the petitioner his legal remedies available in law. Mr. Rohatgi reiterated that, in any case, the merits of the amendment cannot be seen at the stage of allowing or disallowing the amendment and all the amendments sought in the interlocutory application may be allowed.

07. I have given my thoughtful consideration to the rival submission of the parties and perused the record.

08. The instant writ petition has been filed for following relief(s):

“I. For issuance of writ/order/direction including writ in the nature of certiorari for quashing the entire criminal prosecution arising out of ECIR/PTZO/13/2025 being violative of Article 20(3) of the Constitution of India.

II. For issuance of Writ/order/direction including writ in the nature of mandamus refraining the respondent-Directorate of Enforcement, by itself or through its officers or



agents, from undertaking any further coercive action, including issuance of any fresh summons, any fresh search, seizure or investigation against the petitioner or its officers/employees based on or arising out of ECIR/PTZO/13/2025 and ECIR/PTZO/4/2024.

III. For any other relief/reliefs which the petitioner is found entitled to on the facts and in the circumstances of the instant case.”

09. By way of this interlocutory application, the petitioner has sought permission to amend the main writ application by adding prayer Nos. IV, V and VI after the aforesaid three prayers of the main petition. The petitioner has also sought correction in the synopsis portion of the petition. The amendments sought have already been extracted hereinbefore.

10. So far as prayer sought to be introduced at Serial No. 1(IV) is concerned, the same relates to challenge to *vires* of Section 50 and 63 of PMLA, 2002, for holding it as *ultra vires* to the Constitution of India. The legality and constitutionality of these provisions have already come for consideration before the Hon'ble Supreme Court in the case of ***Vijay Madanlal Choudhary (supra)***. In the said decision, three Judges' Bench of the Hon'ble Supreme Court in its conclusion in Para-382 held as



under:

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382.22 *The process envisaged by Section 50 of the 2002 Act is in the nature of an inquiry against the proceeds of crime and is not “investigation” in strict sense of the term for initiating prosecution; 538 and the Authorities under the 2002 Act (referred to in Section 48), are not police officers as such.*

382.23 *The statements recorded by the Authorities under the 2002 Act are not hit by Article 20(3) or Article 21 of the Constitution of India.*

382.24 *Section 63 of the 2002 Act providing for punishment regarding false information or failure to give information does not suffer from any vice of arbitrariness.”*

Therefore, the *vires* of Sections 50 and 63 of PMLA, 2002 has already been upheld by the Hon’ble Supreme Court in the case of ***Vijay Madanlal Choudhary (supra)***. Further, the issue of constitutionality of Sections 50 and 63 of PMLA, 2002, is also pending consideration before the Hon’ble Supreme Court in the case(s) of ***Govind Singh Vs. Union of India & Anr. (Writ Petition (Crl.) No. 65 of 2023)***, ***NSDPAY Technology Private Limited Vs. Union of India & Anr. (Writ Petition (Crl) No. 132 of 2025*** and ***Digvijay Singh Vs. Union of India & Anr. (Writ***



Petition (Crl.) No. 291 of 2025.

11. The petitioner has admitted the position of law in paragraph-5 of his synopsis wherein it has been stated that the petitioner is conscious of the recent judgment of Hon'ble Supreme Court whereby a challenge to *vires* of Sections 50 and 63 of PMLA has been turned down in the case of ***Vijay Madanlal Choudhary (supra)***. Though, it has also been mentioned the judgment of ***Vijay Madanlal Choudhary (supra)*** deserves to be held as *per incuriam*.

12. Further, the decision in the case(s) of ***Vijay Bhatia (supra)***, ***Y Balaji (supra)*** and ***Pinki Singh & Ors(supra)*** leave no doubt that the issue regarding challenge to the constitutionality of Sections 50 and 63 of PMLA stands settled and this Court has no occasion to take a different view. If amendment sought for incorporation of prayer - (IV) in writ petition is allowed, the natural corollary would be that this Court will have to consider the *vires* of the provisions of Section 50 and 63 of PMLA which already stands settled with the decision of ***Vijay Madanlal Choudhary (supra)***. Moreover, in some other matters like ***Govind Singh (supra)***, ***NSDPAY Technology Private Limited (supra)*** and ***Digvijay Singh (supra)***, the same issue is under consideration before the



Hon'ble Supreme Court. Therefore, this Court cannot venture into testing the constitutionality of the provisions of Section 50 and 63 of the PMLA in the light of the decision of *Vijay Madanlal Choudhary (supra)* and also the matter being under consideration before the Hon'ble Supreme Court in the cases of *Govind Singh (supra)*, *NSDPAY Technology Private Limited (supra)* and *Digvijay Singh (supra)*. If this Court cannot take up the prayer (IV) for consideration, there is no use allowing the same.

13. The contention of Mr. Rohatgi that the petitioner can raise the issue of constitutionality of the provision of Sections 50 and 63 of PMLA before this Court as he has been relegated by the Hon'ble Supreme Court in Writ Petition (Crl.) No. 411 of 2025 to raise all contentions before this Court, is misconceived. When the Hon'ble Supreme Court is already seized of the matter and challenge to *vires* of Section 50 and 63 of PMLA is under consideration before the Hon'ble Supreme Court, this liberty can only be construed to mean that apart from challenging the *vires* of Sections 50 and 63 of PMLA, the petitioner can raise other issues before this Court. The petitioner cannot stretch the liberty to the extent that all contentions to be raised before this Court would include challenge to the *vires* of



Section 50 and 63 of PMLA. Therefore, I am not persuaded by the submission in this regard made on behalf of the petitioner.

14. So far as contention of Mr. Rohatgi about merits of the amendment not to be seen at the stage of allowing or disallowing the amendment is concerned, I am again not convinced by the said argument. This argument, at first blush, appears attractive for the reason that under Order 6 Rule 17 of the Code, all amendments are to be allowed liberally, except for the time barred amendments or the amendments which are mala fide or which change the nature of the suit etc. But the present petition has been filed under Article 226 of the Constitution of India and there could be no application of the provisions of the Code in the writ petition filed under Article 226. While considering a writ petition under Article 226, this Court is not necessarily required to follow the provisions of the Code.

15. Section 141 of the Code reads as under:

*“141. Miscellaneous proceedings.—
The procedure provided in this Code in regard to suits shall be followed, as far as it can be made applicable, in all proceedings in any Court of civil jurisdiction.*

[Explanation.— In this section, the expression “proceedings” includes proceedings under Order IX, but does not



include any proceedings under article 226 of the Constitution.]”

This provision makes it clear that proceeding does not include any proceeding under Article 226 of the Constitution of India. This fact was emphasized by the Hon’ble Supreme Court in the case of ***Puran Singh & Ors vs State Of Punjab & Ors, 1996 (2) SCC 205***, considering an application under Order XXII of the Code in the writ proceeding and held in Paras-10 and 11 as under:

“10. On a plain reading, Section 141 of the Code provides that the procedure provided in the said Code in regard to suits shall be followed “as far as it can be made applicable, in all proceedings”. In other words, it is open to make the procedure provided in the said Code in regard to suits applicable to any other proceeding in any court of civil jurisdiction. The explanation which was added is more or less in the nature of proviso, saying that the expression ‘proceedings’ shall not include any proceeding under Article 226 of the Constitution. The necessary corollary thereof shall be that it shall be open to make applicable the procedure provided in the Code to any proceeding in any court of civil jurisdiction except to proceedings under Article 226 of the Constitution. Once the proceeding under Article 226 of the Constitution has been excluded from the expression ‘proceedings’ occurring in Section 141 of the



*Code by the explanation, how on basis of Section 141 of the Code any procedure provided in the Code can be made applicable to a proceeding under Article 226 of the Constitution? In this background, how merely on basis of Writ Rule 32 the provisions of the Code shall be applicable to writ proceedings? Apart from that, Section 141 of the Code even in respect of other proceedings contemplates that the procedure provided in the Code in regard to suits shall be followed “as far as it can be made applicable”. Rule 32 of Writ Rules does not specifically make provisions of Code applicable to petitions under Articles 226 and 227 of the Constitution. It simply says that in matters for which no provision has been made by those rules, the provisions of the Code shall apply mutatis mutandis insofar as they are not inconsistent with those rules. In the case of *Rokyayabi v. Ismail Khan* [AIR 1984 Kant 234 : (1984) 2 Kant LC 114] in view of Rule 39 of the writ proceedings rules as framed by the Karnataka High Court making the provisions of Code of Civil Procedure applicable to writ proceedings and writ appeals, it was held that the provisions of the Code were applicable to writ proceedings and writ appeals.*

11. We have not been able to appreciate the anxiety on the part of the different courts in judgments referred to above to apply the provisions of the Code to writ proceedings on the basis of Section 141 of the Code. When the Constitution has vested extraordinary power in



the High Court under Articles 226 and 227 to issue any order, writ or direction and the power of superintendence over all courts and tribunals throughout the territories in relation to which such High Court is exercising jurisdiction, the procedure for exercising such power and jurisdiction have to be traced and found in Articles 226 and 227 itself. No useful purpose will be served by limiting the power of the High Court by procedural provisions prescribed in the Code. Of course, on many questions, the provisions and procedures prescribed under the Code can be taken up as guide while exercising the power, for granting relief to persons, who have invoked the jurisdiction of the High Court. It need not be impressed that different provisions and procedures under the Code are based on well-recognised principles for exercise of discretionary power, and they are reasonable and rational. But at the same time, it cannot be disputed that many procedures prescribed in the said Code are responsible for delaying the delivery of justice and causing delay in securing the remedy available to a person who pursues such remedies. The High Court should be left to adopt its own procedure for granting relief to the persons concerned. The High Court is expected to adopt a procedure which can be held to be not only reasonable but also expeditious.”

16. Therefore, this Court is not bound by the



provisions of the Code and considering the amendment sought as relief (IV) could not be considered by this Court and hence, this amendment could not be allowed.

17. So far as other amendments for adding relief(s) - (V) and (VI) are concerned, they are incidental to the relief already sought for in the main writ petition and could be allowed. Similarly, amendment with regard to correction in wrong mentioning of writ application being filed under Article 32, could also be allowed considering it to be a typographical error.

18. In the light of discussion made here-in-before, the amendment sought to be added as relief (IV) is rejected whereas all other amendments are allowed.

19. Accordingly, I.A. No. 01 of 2025 stands partly allowed.

(Arun Kumar Jha, J)

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