

'Reasons to believe' required for an arrest under Section 19(1) of the PMLA can be founded upon tangible material gathered during an investigation, such as the seizure of disproportionate assets and incriminating statements. The sufficiency or adequacy of such material is not to be scrutinized in-depth by a court at the initial stage of the investigation

The **Bombay High Court** in the case of **Y. Shiva Reddy vs Directorate of Enforcement [Criminal Writ Petition No. 5843 of 2025]** dated **March 09, 2026**, has clarified that the power of judicial review in a writ petition challenging an arrest under the Prevention of Money Laundering Act, 2002 (PMLA) must be exercised with caution, and a court will not interfere unless there is manifest arbitrariness or gross non-compliance with the statutory safeguards provided under Section 19 of the PMLA.

The Court explained that the offence of money laundering under Section 3 of the PMLA is an independent offence concerning the process or activity connected with the proceeds of crime. It is not a prerequisite for a person to be arraigned as an accused in the predicate scheduled offence to be prosecuted under the PMLA.

Accordingly, the High Court held that the 'reasons to believe' required for an arrest under Section 19(1) of the PMLA can be founded upon tangible material gathered during an investigation, such as the seizure of disproportionate assets and incriminating statements. The sufficiency or adequacy of such material is not to be scrutinized in-depth by a court at the initial stage of the investigation.

When the statutory procedure for arrest has been duly followed and the accused has been remanded to custody by a competent court, a belated challenge to the arrest in a writ petition may be construed as an attempt to circumvent the specific and stringent provisions for bail laid down in Section 45 of the PMLA, added the Court.

The Court observed that reiterated that the power of judicial review over an arrest under special statutes like the PMLA must be exercised cautiously and only in cases of manifest arbitrariness or gross non-compliance with statutory safeguards. The Court found that the material gathered during the investigation was shared with the jurisdictional police under Section 66(2) of the PMLA, leading to the registration of the predicate offence, before the petitioner's arrest. Also, upon arrest, the petitioner was informed of the grounds of arrest and reasons to believe under Section 19 of the PMLA, and was produced before the Special Court which remanded him to custody.

The Court rejected the petitioner's contention that the first four FIRs were unconnected to him and the fifth FIR under the Prevention of Corruption Act, 1988 (PC Act) was distinct. It observed that the investigation into the illegal constructions, related to the first four FIRs, revealed the petitioner's role, leading to the search and seizure operations. Further, the recovery of unaccounted cash and jewellery provided a sufficient foundation for the Arresting Officer to believe the petitioner was prima facie guilty of money laundering.

The definition of 'proceeds of crime' under Section 2(1)(u) of the PMLA is expansive and includes property derived from any criminal activity relating to a scheduled offence, which would cover the alleged bribes, added the Court.

The Court also dismissed the argument that the petitioner needed to be named as an accused in the first four FIRs for the PMLA to apply. It reiterated that the offence of money laundering under Section 3 of the PMLA is an independent offence. It is not linked to the date of the scheduled offence but to the date on which a person indulges in a process or activity connected with the proceeds of crime.

Moving ahead, the Court found that the Directorate of Enforcement (ED) had sufficient tangible material to arrest the petitioner. The seizure of disproportionate assets, along with statements recorded under Section 50 of the PMLA, provided a credible basis for the 'reasons to believe' that the petitioner was involved in money laundering. Further, the fact that the petitioner cooperated with the investigation on twelve occasions was not a sufficient ground to declare the arrest illegal.