

Bharat Kumar Modi vs Directorate Of Enforcement on 6 October, 2026

[2026:RJ-JD:47996]

HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

S.B. Civil Writ Petition No. 16610/2026

CNR: RJHC010425772025 | URN: CW / 1880U / 2026

Bharat Kumar Modi S/o Late Devichand Modi, Aged About 61
Years, R/o Sunarwada, Purani Nagar Palika, Sirohi- 307001

-----Petitioner

Versus

Directorate Of Enforcement, Through Deputy Director,
Government Of India, Zonal Office, Second Floor, Jeevan Nidhi -
Ii, Lic Building, Bhawani Singh Road, Jaipur, Rajasthan - 302005

-----Respondent

For Petitioner(s) : Mr. Manish Sisodia, Sr. Counsel
assisted by Mr. Dinesh Kumar Godara,
Mr. Kuldeep Singh & Mr. Kartikey
Dang (through Video Conferencing)
For Respondent(s) : Mr. Harish Kumar Purohit assisted by
Mr. Harsh Purohit & Ms. Vrinda
Bhardwaj

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Order

(i) Arguments concluded on : 25/09/2026

(ii) Order reserved on : 25/09/2026

(iii) Full order/Operative part : Full order

(iv) Order pronounced on : 06/10/2026

1. By way of present writ petition, the petitioner has sought a direction to the respondent - Directorate of Enforcement to file an application under [Section 44\(1\)\(c\)](#) of the Prevention of Money Laundering Act, 2002 (for short "the PMLA") before the learned Additional Sessions Judge, Gurugram, seeking committal of Case No. COMA/5/2019 titled 'Serious Fraud Investigation Office v. Adarsh Build Estate' to the court of the learned Special Judge (PMLA, 2002 and CBI Cases No. 3), Jaipur, where the respondent (Uploaded on 06/10/2026 at 06:36:26 PM) (Downloaded on 06/10/2026 at 11:20:48 PM)

[2026:RJ-JD:47996] (2 of 18) [CW-16610/2026] has instituted proceedings under the PMLA in Complaint No.06/2021 titled 'Enforcement Directorate v. Adarsh Credit Co- operative Society'.

2. The brief facts of the case, as set out in the memo of the writ petition, are that the petitioner is facing criminal proceedings arising out of the affairs and alleged diversion of funds of Adarsh Credit Co-operative Society Ltd. and the entities stated to be associated with the Adarsh Group. On 20.06.2018, the Ministry of Corporate Affairs had ordered investigation into the affairs of 124 Adarsh Group Companies and LLPs by the Serious Fraud Investigation Office (for short 'SFIO'). On 28.12.2018, FIR No.24/2018 was registered by the Special Operations Group (SOG), Jaipur, against the petitioner and other accused persons for offences punishable under [Sections 120-B, 420, 406, 409, 467, 468, 471 and 477-A](#) of I.P.C. Thereafter, upon completion of the investigation, the SFIO filed Criminal Complaint No. COMA 05/2019 before the court of Additional Sessions Judge, Gurugram, under [Section 212](#) of the Companies Act, 2013 and [Sections 43\(2\) & 3\(i\)](#) of the LLP Act, 2008, along with its investigation report dated 09.05.2019. Additional Sessions Judge, Gurugram, took cognizance of the said complaint on 03.06.2019 and the proceedings are stated to be pending before the said Court. 2.1 It is further stated that, on 22.03.2019, the Directorate of Enforcement registered ECIR No. JPZO/01/2019 under the provisions of the PMLA on the basis of the aforesaid criminal proceedings, for alleged commission of offences punishable under [Sections 3 and 4](#) of the PMLA. According to the petitioner, the (Uploaded on 06/10/2026 at 06:36:26 PM) (Downloaded on 06/10/2026 at 11:20:48 PM) [2026:RJ-JD:47996] (3 of 18) [CW-16610/2026] proceedings initiated by the Enforcement Directorate treat the offences forming the subject matter of the SFIO/SOG proceedings as the scheduled offences underlying the alleged offence of money laundering. During investigation under the PMLA, the respondent issued provisional attachment orders in respect of properties alleged to represent proceeds of crime and, on 31.03.2021, filed Prosecution Complaint No. 06/2021 before the court of Special Judge, PMLA, Jaipur, against several accused persons, including the petitioner. Special Judge, PMLA, Jaipur, took cognizance of the said complaint on 08.09.2022 and summoned the accused persons. A supplementary prosecution complaint was also subsequently filed by the respondent, in respect of which cognizance was taken on 17.05.2023.

2.2 The petitioner further states that, after cognizance had been taken by the Special Judge, PMLA, Jaipur, the respondent, on 28.10.2022, filed an application under [Section 44\(1\)\(c\)](#) of the PMLA before the Additional Sessions Judge, Gurugram, seeking committal of the proceedings in the SFIO case to the Court of the Special Judge, PMLA, Jaipur. However, the said application was withdrawn by the respondent on 06.04.2023. According to the petitioner, no satisfactory reason for such withdrawal was disclosed and, despite the pendency of the PMLA proceedings at Jaipur and the earlier invocation of [Section 44\(1\)\(c\)](#) of the PMLA by the respondent itself, the proceedings in the scheduled offence continue before the Additional Sessions Judge, Gurugram. 2.3 The petitioner has also referred to the subsequent provisional attachment proceedings, including the fourth (Uploaded on 06/10/2026 at 06:36:26 PM) (Downloaded on 06/10/2026 at 11:20:48 PM) [2026:RJ-JD:47996] (4 of 18) [CW-16610/2026] provisional attachment order issued in December, 2024, and has asserted that the proceedings under the SFIO/[Companies Act](#) and those under the PMLA arise from interconnected facts and transactions. It is the petitioner's case that continuation of the two proceedings before different courts would result in parallel proceedings concerning the scheduled offence and the alleged offence of money laundering and would cause prejudice and hardship to the petitioner. The petitioner accordingly seeks a direction to the respondent to again move an appropriate application under [Section 44\(1\)\(c\)](#) of the PMLA before the Additional Sessions Judge, Gurugram for committal of the proceedings in Case No. COMA/5/2019 to the Special Judge, PMLA, Jaipur, where the complaint under the PMLA is pending.

3. Reply in the form of a counter affidavit has been filed on behalf of the respondent. It is submitted that the present writ petition is misconceived and is liable to be dismissed. The respondent has raised an objection as to the territorial jurisdiction of this Court, contending that the proceedings in the SFIO case are pending before the competent court at Gurugram, Haryana, and that the judicial hierarchy of the said Court does not fall within the jurisdiction of this Court.

3.1 It is further submitted that [Section 44\(1\)\(c\)](#) of the PMLA does not make it obligatory upon the authorised authority to invariably seek committal of the scheduled offence and that the provision involves exercise of discretion in appropriate cases. 3.2 The respondent has also relied upon the judgment of the Hon'ble Supreme Court in *Vijay Madan Lal Choudhary vs.* (Uploaded on 06/10/2026 at 06:36:26 PM) (Downloaded on 06/10/2026 at 11:20:48 PM) [2026:RJ-JD:47996] (5 of 18) [CW-16610/2026] *Union of India; 2022 SCC OnLine SC 929*, as well as the judgment of the Orissa High Court in *Pankajini Sahu and Another vs. Joint Director (CRLMC No. 1207/2022)* decided on 31.03.2023, to contend that the petitioner cannot claim committal as a matter of right. It is further stated that although, an application under [Section 44\(1\)\(c\)](#) of the PMLA was earlier filed before the Additional Sessions Judge, Gurugram, the same was subsequently withdrawn on the ground of territorial jurisdiction.

4. Heard learned counsel for the parties.

5. Learned Senior Counsel appearing for the petitioner has submitted that the present petition is maintainable before this Court as the petitioner is a resident of Sirohi, his property and bank account subject to attachment are situated within the territorial jurisdiction of this Court, and he was also in custody at Jodhpur. It is submitted that the proceedings initiated by the respondent under the PMLA have a direct and substantial territorial nexus with the jurisdiction of this Court. 5.1 Learned Senior Counsel has further submitted that the SFIO proceedings pending before the Additional Sessions Judge, Gurugram constitute the scheduled/predicate offence on the basis of which the proceedings under the PMLA have been instituted before the Special Judge, PMLA, Jaipur. According to learned Senior Counsel, once cognizance of the scheduled offence and the offence of money laundering has been taken by different Courts, [Section 44\(1\)\(c\)](#) of the PMLA contemplates committal of the proceedings relating to the scheduled offence to the Special Court which has taken cognizance of the complaint of money laundering.

(Uploaded on 06/10/2026 at 06:36:26 PM) (Downloaded on 06/10/2026 at 11:20:48 PM) [2026:RJ-JD:47996] (6 of 18) [CW-16610/2026] 5.2 It is submitted that the use of the expression "shall" in [Section 44\(1\)\(c\)](#) indicates the statutory requirement for such committal upon an application by the authorised authority. Learned Senior Counsel has also submitted that the respondent had earlier invoked the said provision by filing an application before the Additional Sessions Judge, Gurugram, but subsequently withdrew the same without disclosing any cogent reason. 5.3 Reliance has been placed upon, inter alia, [Rana Ayyub vs. Directorate of Enforcement](#), (2023) 4 SCC 357; [K.A. Rauf Sherif vs. Directorate of Enforcement](#), (2023) 6 SCC 92; [Enforcement Directorate vs. State of Jharkhand](#), 2025 SCC OnLine Jhar 1023; *Rajkumar Gulati vs. Directorate of Enforcement* (Cri. WP [St] No. 5733/2024) decided on 14.03.2024; and [Bharathi Cement Corpn. \(P\) Ltd. vs. Enforcement Directorate](#), 2022 SCC OnLine TS 3559; to contend that the trial of the scheduled offence, insofar as territorial jurisdiction is concerned, is required to follow the Special Court which has taken cognizance of the offence of money laundering.

6. Learned counsel for the respondent has opposed the petition and submitted that the prayer made by the petitioner substantially concerns the committal/transfer of proceedings pending before the Additional Sessions Judge, Gurugram, and that this Court has no territorial jurisdiction to issue such a direction in respect of proceedings pending before a Court situated in the State of Haryana. It is

submitted that the power to transfer criminal proceedings between Courts falling under the jurisdiction of (Uploaded on 06/10/2026 at 06:36:26 PM) (Downloaded on 06/10/2026 at 11:20:48 PM) [2026:RJ-JD:47996] (7 of 18) [CW-16610/2026] different High Courts vests in the Hon'ble Supreme Court under Section 446 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to [Section 406](#) of the Code of Criminal Procedure, 1973). Learned counsel has further submitted that, since the Special Court dealing with the PMLA proceedings is situated at Jaipur, any direction concerning the committal of the proceedings pending at Gurugram cannot be issued by this Court. It is further submitted that, in any event, if any such direction is permissible in law, the writ petition would lie before the jurisdictional High Court at Jaipur Bench, where the Special Court dealing with the PMLA proceedings is situated.

6.1 It is also submitted that [Section 44\(1\)\(c\)](#) of the PMLA does not impose an absolute and invariable obligation upon the authorised authority to seek committal of every scheduled offence, and reliance has been placed upon Vijay Madan Lal Choudhary (supra) and the judgment of the Orissa High Court in Pankajini Sahu (supra).

6.2 Learned counsel has accordingly submitted that the respondent had exercised its discretion by filing the application under [Section 44\(1\)\(c\)](#) of the PMLA and thereafter withdrawing the same on the ground of territorial jurisdiction, and that no case is made out for issuance of the direction sought by the petitioner.

7. I have considered the submissions advanced by learned counsel for the parties, perused the material available on record and examined the judgments cited by learned counsel for the respective parties.

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8. At the outset, it would be apposite to notice the statutory scheme governing the controversy. [Section 43\(1\)](#) of PMLA provides for designation of one or more Courts of Session as Special Courts for trial of an offence punishable under [Section 4](#) of the PMLA. [Section 44](#), which deals with offences triable by such Special Courts, assumes particular significance in the present case. The relevant provisions of [Sections 43](#) and [44](#) of the PMLA read as under :

"43. Special Courts.

(1) The Central Government, in consultation with the Chief Justice of the High Court, shall, for trial of offence punishable under [section 4](#) by notification designate one or more Courts of Session as Special Court or Special Courts for such area or areas or for such case or class or group of cases as may be specified in the notification. Explanation. In this sub-section, High Court means the High Court of the State in which a Sessions Court designated as Special Court was functioning immediately before such designation. (2) While trying an offence under this Act, a Special Court shall also try an offence, other than an offence referred to in sub-section (1), with which the accused may, under the [Code of Criminal Procedure](#), 1973 (2 of 1974), be charged at the same trial.

44. Offences triable by Special Courts.

(1) Notwithstanding anything contained in the [Code of Criminal Procedure](#), 1973 (2 of 1974),

(a) an offence punishable under [section 4](#) and any scheduled offence connected to the offence under that section shall be triable by the Special Court constituted for the area in which the offence has been committed :-

Provided that the Special Court, trying a scheduled offence before the commencement of this Act, shall continue to try such scheduled offence; or

(b) a Special Court may, upon a complaint made by an authority authorised in this behalf under this Act take cognizance of offence under [section 3](#), without the accused being committed to it for trial.

Provided that after conclusion of investigation, if no offence of moneylaundering is made out requiring filing of such complaint, the said authority shall submit a closure report before the Special Court; or
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(c) if the court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the complaint of the offence of money-laundering under sub-clause (b), it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed.

(d) a Special Court while trying the scheduled offence or the offence of money-laundering shall hold trial in accordance with the provisions of the Code of Criminal Procedure, 1973, as it applies to a trial before a Court of Session.

Explanation.--For the removal of doubts, it is clarified that,--

(i) the jurisdiction of the Special Court while dealing with the offence under this Act, during investigation, enquiry or trial under this Act, shall not be dependent upon any orders passed in respect of the scheduled offence, and the trial of both sets of offences by the same court shall not be construed as joint trial;

(ii) the complaint shall be deemed to include any subsequent complaint in respect of further investigation that may be conducted to bring any further evidence, oral or documentary, against any accused person involved in respect of the offence, for which complaint has already been filed, whether named in the original complaint or not.

(2) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under [section 439](#) of the Code of Criminal Procedure, 1973 (2 of 1974) and the High Court may exercise such powers including the power under clause (b) of sub-section (1) of that section as if the reference to Magistrate in that section includes also a reference to a Special Court designated under [section 43](#)."

A plain reading of the aforesaid provisions shows that [Section 44\(1\)\(a\)](#) deals with a situation where the scheduled offence as well as the offence of money laundering fall within the territorial jurisdiction of the same Special Court. [Section 44\(1\)\(c\)](#), on the other hand, specifically addresses the situation where cognizance of the scheduled offence has already been taken by a Court other than the Special Court which has taken cognizance of the complaint of money laundering. In such a situation, the (Uploaded on 06/10/2026 at 06:36:26 PM) (Downloaded on 06/10/2026 at 11:20:48 PM) [2026:RJ-JD:47996] (10 of 18) [CW-16610/2026] provision contemplates an application by the authority authorised to file a complaint under the PMLA and, upon such application, committal of the case relating to the scheduled offence to the Special Court.

9. The scope and effect of [Sections 43](#) and [44](#) of the PMLA came up for detailed consideration before the Hon'ble Supreme Court in [Rana Ayyub](#) (supra). While examining the statutory scheme, the Hon'ble Supreme Court observed:

"22. [Section 43\(1\)](#) of the Act provides for the constitution of Special Courts, by the Central Government, in consultation with the Chief Justice of the High Court. Sub-section (2) of [Section](#)

[43](#) empowers a Special Court constituted under [Section 43\(1\)](#), also to try an offence other than the offence punishable under [Section 4](#) of the PMLA, with which the accused may be charged at the same trial under the [CrPC](#). In other words, a Special Court is constituted under [Section 43\(1\)](#) primarily for the purpose of trying an offence punishable under [Section 4](#). But sub-section (2) of [Section 43](#) confers an additional jurisdiction upon such a Special Court to try any other offence with which the accused may be charged at the same trial.

23. [Section 43](#) reads as follows:

"43. Special Courts. (1) The Central Government, in consultation with the Chief Justice of the High Court, shall, for trial of offence punishable under [Section 4](#), by notification, designate one or more Courts of Session as Special Court or Special Courts for such area or areas or for such case or class or group of cases as may be specified in the notification. Explanation. In this sub-section, "High Court" means the High Court of the State in which a Sessions Court designated as Special Court was functioning immediately before such designation.

(2) While trying an offence under this Act, a Special Court shall also try an offence, other than an offence referred to in sub-section (1), with which the accused may, under the [Code of Criminal Procedure](#), 1973 (2 of 1974), be charged at the same trial."

24. [Section 44](#) deals with the question of territorial jurisdiction of the Special Court, constituted under [Section 43\(1\)](#). At the outset, [Section 44\(1\)](#) takes note of two different contingencies, namely: (i) cases where the scheduled offence as well as the offence of money- laundering are committed within the territorial jurisdiction of the (Uploaded on 06/10/2026 at 06:36:26 PM) (Downloaded on 06/10/2026 at 11:20:48 PM) [2026:RJ-JD:47996] (11 of 18) [CW-16610/2026] same Special Court constituted under [Section 43\(1\)](#); and (ii) cases where the Court which has taken cognizance of the scheduled offence, is other than the Special Court which has taken cognizance of the complaint of the offence of money-laundering.

25. [Section 44\(1\)](#) reads as follows:

"44. Offences triable by Special Courts. (1) Notwithstanding anything contained in the [Code of Criminal Procedure](#), 1973 (2 of 1974)-

(a) an offence punishable under [Section 4](#) and any scheduled offence connected to the offence under that section shall be triable by the Special Court constituted for the area in which the offence has been committed:

Provided that the Special Court, trying a scheduled offence before the commencement of this Act, shall continue to try such scheduled offence; or;

(b) a Special Court may, upon a complaint made by an authority authorised in this behalf under this Act take cognizance of offence under [Section 3](#), without the accused being committed to it for trial:

Provided that after conclusion of investigation, if no offence of money-laundering is made out requiring filing of such complaint, the said authority shall submit a closure report before the Special Court; or

(c) if the court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the complaint of the offence of money-

laundering under sub-clause (b), it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the

Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed.

(d) a Special Court while trying the scheduled offence or the offence of money-laundering shall hold trial in accordance with the provisions of the [Code of Criminal Procedure](#), 1973 (2 of 1974), as it applies to a trial before a Court of Session. Explanation.- For the removal of doubts, it is clarified that-

(i) the jurisdiction of the Special Court while dealing with the offence under this Act, during investigation, enquiry or trial under this Act, shall not be dependent upon any orders passed in respect of the scheduled offence, and the trial of both sets of offences by the same court shall not be construed as joint trial;

(ii) the complaint shall be deemed to include any subsequent complaint in respect of further investigation that may be conducted to bring any further evidence, oral or (Uploaded on 06/10/2026 at 06:36:26 PM) (Downloaded on 06/10/2026 at 11:20:48 PM) [2026:RJ-JD:47996] (12 of 18) [CW-16610/2026] documentary, against any accused person involved in respect of the offence, for which complaint has already been filed, whether named in the original complaint or not."

26. What is dealt with by [Section 44\(1\)\(a\)](#) is a situation where there is no complication. [Section 44\(1\)\(a\)](#) lays down the most fundamental rule relating to territorial jurisdiction, by providing that an offence punishable under [Section 4](#) of the PMLA and any scheduled offence connected to the same shall be triable by the Special Court constituted for the area in which the offence has been committed. It is relevant to note that [Section 44\(1\)\(a\)](#) uses the expression "offence" in three places in contradistinction to the expression "scheduled offence" used only once. This usage is not without significance. In all three places where the word "offence" alone is used, it connotes the offence of money-laundering. The place where the expression "scheduled offence" is used, it connotes the predicate offence. By prescribing that an offence punishable under [Section 4](#) of the PMLA and any scheduled offence connected to the same shall be triable by the Special Court constituted for the area in which "the offence" has been committed, [Section 44\(1\)\(a\)](#) makes it crystal clear that it is the Special Court constituted under [Section 43\(1\)](#), which will be empowered to try even the scheduled offence connected to the same.

27. After mapping out/laying down such a general but fundamental rule, the Act then proceeds to deal with a more complicated situation in [Section 44\(1\)\(c\)](#). The question as to what happens if the court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the offence of money-laundering, is what is sought to be answered by clause (c) of sub-section (1) of [Section 44](#). If the court which has taken cognizance of the scheduled offence is different from the Special Court which has taken cognizance of the offence of money-laundering, then the authority authorised to file a complaint under PMLA should make an application to the court which has taken cognizance of the scheduled offence. On the application so filed, the court which has taken cognizance of the scheduled offence, should commit the case relating to the scheduled offence to the Special Court which has taken cognizance of the complaint of money-laundering.

28. Therefore, it is clear that the trial of the scheduled offence should take place in the Special Court which has taken cognizance of the offence of money-laundering. In other words, the trial of the scheduled offence, insofar as the question of territorial jurisdiction is concerned, should follow the trial of the offence of money-laundering and not vice versa.

29. Since the Act contemplates the trial of the scheduled offence and the trial of the offence of money-laundering to take place only before the Special Court constituted under [Section 43\(1\)](#), a doubt is prone to arise as to whether all the offences are to be tried together. This doubt is sought to be removed by Explanation (i) to Section (Uploaded on 06/10/2026 at 06:36:26 PM) (Downloaded on 06/10/2026 at

11:20:48 PM) [2026:RJ-JD:47996] (13 of 18) [CW-16610/2026] 44(1). Explanation (i) clarifies that the trial of both sets of offences by the same court shall not be construed as joint trial.

30. A careful dissection of clauses (a) and (c) of sub-section (1) of [Section 44](#) shows that they confer primacy upon the Special Court constituted under [Section 43\(1\)](#) of the PMLA. These two clauses contain two rules, namely: (i) that the offence punishable under PMLA as well as a scheduled offence connected to the same shall be triable by the Special Court constituted for the area in which the offence of money-laundering has been committed; and (ii) that if cognizance has been taken by one Court, in respect of the scheduled offence and cognizance has been taken in respect of the offence of money-laundering by the Special Court, the Court trying the scheduled offence shall commit it to the Special Court trying the offence of money-laundering.

31. It is only because of the Special Court constituted under [Section 43\(1\)](#) being conferred primacy that [Section 44\(1\)](#) begins with the words "notwithstanding anything contained in the [Code of Criminal Procedure](#)". Though PMLA contains a non obstante clause in relation to the [CrPC](#), both in [Section 44\(1\)](#) and in [Section 45\(1\)](#), there are two other provisions where the [Code of Criminal Procedure](#) is specifically declared to apply to the proceedings before a Special Court. [Section 46\(1\)](#) specifically makes the provisions of the [CrPC](#) applicable to proceedings before a Special Court. Similarly, [Section 65](#) of the PMLA makes the provisions of [CrPC](#) apply to arrest, search and seizure, attachment, confiscation, investigation, prosecution and all other proceedings under the Act.

32. Therefore, it is clear that the provisions of the [CrPC](#) are applicable to all proceedings under the Act including proceedings before the Special Court, except to the extent they are specifically excluded. Hence, [Section 71](#) of the PMLA providing an overriding effect, has to be construed in tune with [Section 46\(1\)](#) and [Section 65](#)."

10. The aforesaid position was reiterated in [K.A. Rauf Sherif](#) (supra), wherein the Hon'ble Supreme Court considered the scheme of [Sections 43](#) and [44](#) of the PMLA. The said decision, however, arose in the context of transfer of a PMLA case and does not lay down that the statutory mechanism contemplated under [Section 44\(1\)\(c\)](#) may be disregarded altogether in a case where the authorised authority has itself invoked the said provision.

11. The reliance placed by the petitioner upon [Rajkumar Gulati](#) (supra), also lends support to the statutory interpretation noticed (Uploaded on 06/10/2026 at 06:36:26 PM) (Downloaded on 06/10/2026 at 11:20:48 PM) [2026:RJ-JD:47996] (14 of 18) [CW-16610/2026] above. In the said decision, the Bombay High Court considered the scheme of [Section 44\(1\)\(c\)](#) of the PMLA and recognised that, where cognizance of the scheduled offence and the offence of money laundering has been taken by different Courts, the statutory mechanism under [Section 44\(1\)\(c\)](#) is required to be followed, wherein the Court observed as under :-

"3. In this petition, the allegations are irrelevant due to the limited issue at hand. The petitioner is arraigned as an accused in the charge sheet filed by the Central Bureau of Investigation (CBI) at the Special Court in Srinagar. Additionally, the Enforcement Directorate filed a prosecution complaint before the Special PMLA Court in Mumbai, in the investigation commenced based on the said offence, where the petitioner is also arraigned as an accused. Both courts have taken cognizance of the matter and the petitioner is currently out on bail. The petitioner challenges the order dated 04.03.2024, passed by the designated PMLA Court, which declined to direct the CBI Court in Srinagar to transfer the case to the designated PMLA Court in Mumbai. The petitioner seeks relief under [Section 44\(1\)\(c\)](#) of PML Act. [Section 44\(1\)\(c\)](#) of the PML Act reads thus:

"44. Offences triable by Special Courts-

(1)(c) if the court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the complaint of the offence of money-

laundering under sub-clause (b), it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed."

4. It remains undisputed that the Special CBI Court in Srinagar has taken cognizance of the offence, while the Designated PMLA Court in Mumbai has taken cognizance of the PMLA case.

5. The inclusion of the term "shall" in the statute leaves the trial court handling the matters related to scheduled offence with no discretion but to refer the case to the court dealing with the PMLA case. The statute further mandates the exercise of this power upon an application submitted by the authorised authority responsible for filing a complaint. [Section 44\(1\)\(c\)](#) can only be invoked at the behest of the authorised authority under this Act. Thus, the PMLA court has appropriately instructed the ED to submit such an application and promptly report compliance. The petitioner lacks standing to file an application under [Section 44\(1\)\(c\)](#), and therefore, the trial court's order should not be interfered with. At this stage, the learned Counsel (Uploaded on 06/10/2026 at 06:36:26 PM) (Downloaded on 06/10/2026 at 11:20:48 PM) [2026:RJ-JD:47996] (15 of 18) [CW-16610/2026] representing the respondent ED submits that the ED shall endeavour to comply with the PMLA court's order within a week from today."

12. The reliance placed by the respondent upon Vijay Madan Lal Choudhary (supra), does not justify such a course. No doubt, the offence of money laundering and the scheduled offence are distinct offences and their trial before the same Special Court does not amount to a joint trial. However, [Section 44\(1\)\(c\)](#) specifically provides the mechanism to be followed where cognizance of the two offences has been taken by different Courts. The discretion available to the authorised authority cannot be understood as an arbitrary discretion to render the statutory mechanism nugatory.

13. The judgment of the Orissa High Court in Pankajini Sahu and Another (supra), relied upon by the respondent, is distinguishable on facts. The said judgment holds that committal under [Section 44\(1\)\(c\)](#) cannot be claimed as an absolute right. In the present case, the factual position is not in dispute. The respondent registered ECIR No. JPZO/01/2019 and thereafter filed Complaint No. 06/2021 before the learned Special Judge, PMLA, Jaipur, wherein cognizance was taken on 08.09.2022. Thereafter, on 28.10.2022, the respondent itself invoked [Section 44\(1\)\(c\)](#) by filing an application before the Additional Sessions Judge, Gurugram, seeking committal of the SFIO proceedings to the Special Court at Jaipur.

14. The said application was subsequently withdrawn on 06.04.2023. Significantly, the respondent has not placed on record any material indicating that, between the filing and withdrawal of (Uploaded on 06/10/2026 at 06:36:26 PM) (Downloaded on 06/10/2026 at 11:20:48 PM) [2026:RJ-JD:47996] (16 of 18) [CW-16610/2026] the application, there was any change in the factual or legal position warranting such withdrawal. The explanation that the application was withdrawn on the ground of territorial jurisdiction, by itself, does not satisfactorily explain why the statutory mechanism was thereafter abandoned altogether.

15. Once the respondent had itself treated the proceedings pending before the Additional Sessions Judge, Gurugram as the scheduled offence connected with its PMLA proceedings at Jaipur and had invoked [Section 44\(1\)\(c\)](#), it was incumbent upon it to act consistently with the statutory scheme. The discretion contemplated under the provision cannot be exercised in a manner which defeats the very mechanism enacted by the legislature.

16. The objection regarding territorial jurisdiction also does not merit acceptance. The petitioner is not seeking transfer of the SFIO proceedings by this Court in exercise of any power of transfer. The limited relief sought is a direction to the respondent, which is amenable to the jurisdiction of this Court, to take the statutory step contemplated under [Section 44\(1\)\(c\)](#). The actual question of committal is thereafter to be considered by the Court before which the scheduled offence is pending. Moreover, the petitioner is a resident of Sirohi, the property and bank account subject to attachment are situated within the territorial jurisdiction of this Court, and the petitioner was also in custody at Jodhpur. These facts provide a sufficient nexus with the territorial jurisdiction of this Court.

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17. In [Jayaswals Neco Limited vs. Union of India and others](#) reported in 2007 SCC OnLine Del 2094, the Delhi High Court has observed as under :-

"43. Thus, it is clear that [Article 226 \(2\)](#) is in addition to [Article 226 \(1\)](#), implying thereby that the High Court within whose territorial limits the person, authority or government is located would have jurisdiction to entertain a writ petition directed against any of them irrespective of the fact as to where cause of action arose, provided that there was a cause of action for filing a writ petition. Additionally, High Courts within whose limits the person, authority or government to whom the writ is to be issued, is not located can also issue writs to such person, authority or government provided the cause of action, in whole or in part, arose within their territories.

44. Furthermore, in [Mosaraf Hossain Khan v. Bhageeratha Engg.](#)

Ltd., (2006) 3 SCC 658, the Supreme Court explained what was held by them in Kusum Ingots (supra) in the following words:-

"In that case it was clearly held that only because the High Court within whose jurisdiction a legislation is passed, it would not have the sole territorial jurisdiction but all the High Courts where cause of action arises, will have jurisdiction."

18. The present case falls within the situation specifically contemplated by [Section 44\(1\)\(c\)](#): cognizance of the scheduled offence has been taken by the Additional Sessions Judge, Gurugram, whereas, cognizance of the complaint alleging money laundering has been taken by the Special Judge, PMLA, Jaipur. The existence of separate proceedings before the two Courts is not, by itself, impermissible; however, the PMLA provides a specific statutory mechanism for bringing the scheduled offence before the Special Court seized of the money-laundering complaint.

19. In the facts of the present case, particularly when the respondent itself had earlier invoked [Section 44\(1\)\(c\)](#) and has failed to disclose any cogent reason for subsequently abandoning the same, this Court is of the view that the respondent ought to (Uploaded on 06/10/2026 at 06:36:26 PM) (Downloaded on 06/10/2026 at 11:20:48 PM) [2026:RJ-JD:47996] (18 of 18) [CW-16610/2026] take the statutory course contemplated under the said provision. Such direction would neither determine the merits of either prosecution nor amount to a transfer of the criminal case by this Court.

20. Accordingly, the writ petition is allowed. The respondent- Directorate of Enforcement is directed to file an appropriate application under [Section 44\(1\)\(c\)](#) of the PMLA before the Additional Sessions Judge, Gurugram, seeking committal of Case No. COMA/5/2019 titled as 'Serious Fraud Investigation Office v. Adarsh Build Estate', to the court of the Special Judge (PMLA, 2002 and CBI Cases No. 3), Jaipur, within four weeks from the date of receipt of a certified copy of this order.

21. It is clarified that this Court has not expressed any opinion on the merits of the scheduled offence, the offence of money laundering, the SFIO proceedings, the PMLA proceedings or the provisional attachment proceedings. The application under [Section 44\(1\)\(c\)](#) shall be considered and decided by the competent Court in accordance with law, uninfluenced by any observation made herein on the merits of the respective proceedings.

22. Stay application as well as all pending application(s), if any, shall also stand disposed of.

(MUKESH RAJPUROHIT),J 252/Inder (Uploaded on 06/10/2026 at 06:36:26 PM) (Downloaded on 06/10/2026 at 11:20:48 PM) Powered by TCPDF (www.tcpdf.org)