

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Writ Petition No. 2049 of 2026

Rajesh Kumar

.....Petitioner

Versus

Union of India and others

.....Respondents

Presence:-

Ms. Meenakshi Arora, learned Senior Advocate (through V.C.) assisted by Mr. Ramji Shrivastava and Ms. Vermica Semwal, Advocate for the petitioner.

Mr. Lalit Sharma, learned Deputy Solicitor General for the Union of India/respondent No.1.

Mr. Piyush Garg, learned Senior Advocate assisted by Mr. Kush Goswami, Advocate for respondent-Enforcement Directorate.

Judgment reserved on 13.10.2026

Judgment delivered on 15.10.2026

Hon'ble Pankaj Purohit, J. (Oral)

The present writ petition is filed under Article 226 of the Constitution of India by the petitioner seeking following reliefs:-

“(I) Issue a writ, order or direction in the nature of Certiorari calling for the entire records pertaining to the impugned search proceedings conducted on 10.09.2026 and 25.09.2026 and the summons dated 21.09.2026 issued under Section 50 of the Prevention of Money Laundering Act, 2002 and, quash and set aside the said impugned search proceedings, summons and all consequential orders/actions taken pursuant thereto.

(II) Issue a writ, order or direction in the nature of Mandamus restraining the Respondents from harassing the Petitioner or taking any coercive measures against the Petitioner in any manner pursuant to the impugned search proceedings dated 10.09.2026 and 25.09.2026 and the summons dated 21.09.2026.”

2. The facts in brief are that multiple FIRs including FIR No.289 of 2022 was registered at Police Station Raipur, District Dehradun regarding the alleged leak of the graduate

level examination 2021 conducted by UKSSSC. These FIRs were clubbed together and were treated as scheduled offences under Prevention of Money Laundering Act (hereinafter referred as “PMLA”). The Directorate of Enforcement registered ECIR/DNSZO/06/2022 under Section 3 & 4 of the PMLA in relation to the aforesaid scheduled offences. The respondent authorities conducted search operations under Section 17 of the PMLA at multiple premises including the residential premise of the petitioner. During the said search, orders under Section 17(1A) were passed freezing the petitioner’s bank account maintained with HDFC and AXIS Bank. The respondents also issued summons under Section 50 of PMLA to the petitioner which were complied with by the petitioner. The statements of the petitioner were duly recorded and the petitioner furnished information and documents in relation to the subject matter of investigation. Thereafter, the Directorate of Enforcement filed prosecution complaint case no.69 of 2024 before the learned Special Court, Dehradun in furtherance of which cognizance was taken by the learned Special Court. Thereafter, the respondent again on 10.09.2026 conducted the impugned search at the same residential premises where the search had already been taken place and in furtherance seized two bank lockers and also confiscated one i-phone. The respondents thereafter issued fresh summons under Section 50 of the PMLA requiring the petitioner to furnish information and documents. Thereafter, a further search was conducted on 24.09.2026 and on 25.09.2026, petitioner’s PNB locker was seized. The petitioner is before this Court against the aforementioned further searches.

3. Learned senior counsel for the petitioner vehemently argues that the impugned second search conducted after filing of the prosecution complaint amounts to an impermissible “ever greening of investigation” whereby an investigation which had already culminated in prosecution is sought to be repeatedly revived through coercive searches without disclosure of any fresh material or any defined investigative necessity. He argues that the power to search and seizure under PMLA cannot be converted into an unstructured and indefinite power to subject the Petitioner to repeated searches in respect of the same allegations, transactions and subject matter. He emphasizes that without any requirement to demonstrate fresh material or circumstances, the power to conduct search and seizure indefinitely after taking cognizance under Section 17 would reduce the statutory safeguards under Section 17 to a nullity. He further states that such power would permit the officers to exercise continuing coercive power over a person already subjected to judicial proceedings, contrary to the constitutional guarantee of fair, just and reasonable procedure under Article 21 of the Constitution of India.

4. The learned senior counsel submits that the provisions under Section 193 BNSS are not followed by the Respondent authorities as once Ld. Special court is seized of the Prosecution Complaint and is conducting trial, any further search must be undertaken with the permission of the Ld. Special court and not otherwise. She argues that any search conducted in derogation of these mandatory safeguards is arbitrary and violative of Articles 14 and 21 of the

Constitution of India. She submits that the speculative assertion that the seized documents "may contain incriminating evidence" is insufficient to override the constitutional rights under Articles 14 and 21 of the Constitution of India. She further submits that Section 17 of the PMLA does not confer an unfettered or unbridled power upon the officers of the Respondent to conduct search proceedings according to their whims and fancies of the respondent authorities. The expression "reason to believe" under Section 17 is not a mere formality but a condition precedent to the exercise of the power of search. Such belief must be founded on relevant material in the possession of the authorised officer and duly recorded in writing, and its existence and rational basis are amenable to judicial scrutiny.

5. The learned Senior Counsel for the respondent-Enforcement Directorate submits that the petitioner is the Managing Director of M/s RMS Techno Solution Pvt. Ltd., Lucknow and is the accused no.10 and the aforesaid company is accused no.11 in Prosecution Complaint No.69 of 2024. He states that the aforesaid company was entrusted with printing the papers of the graduate level exam and the papers leaked from its printing press. The petitioner is accused of leaking the paper and spreading it through other accused persons. He is an accused in police charge-sheet in FIR Nos.289 of 2022, 351 of 2022, 1 of 2020. He also submits that the petitioner did not appear even after receiving summons dated 18.09.2024 under Section 50 of the PMLA. He further argues that the prosecution complaint expressly records that the further investigation is ongoing and seeks

leave to file a supplementary complaint. He further submits that the search was conducted at the premises under authorization no.12 of 2026 dated 09.09.2026 issued under Section 17 of the PMLA in the presence of two independent panch witness, the authorization was shown to and signed by the petitioner, personal search of officers was also offered before and after the search which was denied by the petitioner. He further states that summons dated 21.09.2026 were necessary to be issued as money laundering is a continuing offence and the summon seeks bank's statement up to date along with ITR updates and source of funds. He further argues that further investigation after filing of complaint is expressly permitted by explanation (ii) Section 44(1) of the PMLA. He further states that the aforesaid provision was upheld in **Vijay Madanlal Choudhary v. Union of India, (2022) 10 SCC 386**. He also states that explanation (ii) Section 44(1) of the PMLA specifically provides that accused can be called for interrogation for the purpose of recording their statements under Section 50 of the PMLA even after filing of complaint. He further states that the permission is required from the Court for further investigation during the trial and not before the trial commences. He submits that each search was conducted after following the due process of law and after fresh authorization under Section 17 by an officer of the rank of Deputy Director with reasons recorded in writing and the recorded reasons and material were forwarded to the adjudicating authority in a sealed cover which acted as a safeguard. He further stated that the search were necessary as the proceeds of crime are not fully traced and against 65

lakhs alleged to have been received in lieu of paper leak only 11 lakhs have been recovered. He further states that as per Section 50 the summons are a part of judicial proceeding and the petitioner was duty bound to cooperate.

6. I have heard the rival contentions made by the learned counsels for the parties and have perused the material available on record.

7. Primary contention of the learned counsel for the petitioner is that the search conducted after filing of prosecution complaint will lead to evergreening of investigation and is violative of Article 14 and 21 of the Constitution of India. This Court is of the firm opinion that the power of further investigation is enshrined in the statute itself and Section 44 explanation (ii) of the PMLA authorizes the same. My aforesaid view is fortified by the following judgments of Hon'ble Apex Court. In **the Assistant Director Directorate of Enforcement v. Gautam Kundu & Anr.** Criminal Appeal arising out of SLP (Crl.) No.271 of 2024 – Supreme Court **and Bhupesh Kumar Baghel v. Union of India & Ors.** W.P. (Crl.) No.301 of 2025 – Supreme Court, the Apex Court in these cases held that further investigation is well open to Investigating Agency and Authorities of Enforcement Directorate can bring on record further evidence during trial.

8. The Court agrees with the submission of the learned counsel for the petitioner that power to search under Section 17 of the PMLA is not unbrittled and there are reasonable safeguards to it. But in the case in hand fair just and reasonable procedure has been followed by the

Investigating Agency and each impugned search was authorized under Section 17 by an officer of the rank of Deputy Director and the recorded reasons were forwarded to the adjudicating authority in a sealed cover thereby following the mandatory safeguard as was noted by Apex Court Judgment in Vijay Madanlal (*supra*).

9. The contention of the learned counsel for the petitioner that mandatory permission of the Court for further investigation as enshrined under Section 193 of the BNSS, 2023 was not taken also does not hold any water as Section 193(9) of BNSS mandates prior permission of the Court only if the further investigation is undertaken “during trial”. It is a settled proposition of law that a trial is deemed to commence only after framing of charges and in the present case in hand as the charges have not yet been framed, therefore, permission of the court is not necessary. Even the cognizance order was set aside by this Court vide order dated 25.09.2026 passed in Criminal Miscellaneous Application No.2050 of 2026 on a limited ground of non-grant of pre-cognizance of hearing, with a direction to trial court to proceed from the stage of cognizance.

10. Considering the above, this Court does not find any reason to interfere with the further investigation initiated by the Enforcement Directorate. Accordingly, the writ petition deserves to be dismissed.

11. The writ petition is hereby dismissed.

(Pankaj Purohit, J.)

Ravi

