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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02-11-2026

Delivered on : 05-11-2026

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

AND

THE HON'BLE MR.JUSTICE RAJNISH PATHIYIL

CRL OP(MD) No. 21716 of 2026

CNR:{HCMD011324602026}

Case QR

and CRL.MP.(MD).No.20609 of 2026

R. Anandha Ramakrishnan
S/o.Shri.Anitha R.Radhakrishnan,
Plot No.17,
Ayyanar Main Street,
Guru Nagar,
Thiruppalai,
Madurai Rural-625 014.

..Petitioner(s)

Vs

The Assistant Director
Directorate of Enforcement,
Chennai Zone-II,
Chennai.

..Respondent(s)

PRAYER: This Petition filed under section 528 of BNSS to call for the records relating to the impugned order in Crl.MP.No.3212 of 2026 in unnumbered CC.No.--/2026 in ECIR/CEZO-II/21/2020, (SR.No.1320 of 2025) dated 31.08.2026 passed by the learned Principal District and Sessions Judge, Madurai and quash the same insofar as the petitioner is concerned.

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For Petitioner(s) Mr.G.Suresh Babu
for M/s. Sri Law Associates

For Respondent(s) Mr.P.Sidharthan
Special Public Prosecutor for
Directorate of Enforcement Cases

ORDER

(Order of the Court was made by ABDUL QUDDHOSE J.)

The issue that arises for consideration in this Criminal Original Petition filed under Section 528 of the BNSS is whether the Enforcement Directorate is liable to furnish copies of the relied-upon documents to the accused (petitioner) in the pre-cognizance stage.

2. In the impugned order, the request of the petitioner, who is the fourth accused, seeking for a direction to the Enforcement Directorate to furnish copies of the relied-upon documents, was rejected by the trial Court, by relying upon the judgment of the Hon'ble Supreme Court in the case of ***Sarla Gupta and Another Vs. Directorate of Enforcement*** reported in ***(2025) 7 SCC 626.***

3. According to the learned counsel appearing for the petitioner, the trial Court has committed an error in rejecting the petitioner's request. According to him, in the decision referred to supra, the Hon'ble Supreme Court was not dealing with the first proviso to Section 223(1) of the

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BNSS. According to the learned counsel appearing for the petitioner, the said proviso makes it clear that the documents filed along with the complaint by the Enforcement Directorate will have to be furnished to the petitioner, since the said proviso makes it clear that the accused must be granted an opportunity of being heard before the Court takes cognizance of the complaint filed by the Enforcement Directorate.

4. We find that the facts involved in the decision relied upon by the trial Court for rejecting the petitioner's application are different. In the said decision, the offence under the PMLA, 2002, had taken place prior to the coming into force of BNSS, and the first proviso to Section 223 (1) was not the subject matter of consideration by the Hon'ble Supreme Court in the case of ***Sarla Gupta and another*** referred to supra.

5. The learned counsel appearing for the petitioner drew the attention of this Court to the decision rendered by the Allahabad High Court in the case of ***Supreme Technofabs Private Limited Vs. Directorate of Enforcement and Anil Kumar Khemka Vs. Directorate of Enforcement U.P.*** reported in ***Manu / UP / 0358 / 2026*** and would submit that, in identical facts, involving an accused seeking furnishing copies of the documents filed along with the complaint by the

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Enforcement Directorate, the Allahabad High Court, while interpreting the term “opportunity of being heard” found in the first proviso to Section 223(1) of the BNSS, held that the term “opportunity of being heard” shall include furnishing copies of the relied-upon documents to the accused.

6. The learned counsel appearing for the petitioner would submit that erroneously, the trial Court had disregarded the decision of the Allahabad High Court, which clearly applies to the facts of the instant case. The learned counsel appearing for the petitioner would also submit that in similar PMLA cases, involving the case of ***Manthiramoorthy in ECIR NO.ECIR / MDSZO / 21 / 2020*** and in the case of ***M.R.Ganesh in ECIR / CEZO-II/13/2023,*** the Enforcement Directorate did not raise any objection and had furnished copies of the documents to the accused in the pre-cognizance stage. Therefore, he would submit that there cannot be discrimination between the accused in PMLA proceedings by the Enforcement Directorate. He would therefore submit that, as a matter of legal right, the petitioner is entitled to receive copies of the documents relied upon filed by the Enforcement Directorate in this case as well.

7. The learned counsel appearing for the petitioner also drew the attention of this Court to the Division Bench Judgment of the Delhi High

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Court in the case of ***Rita Bakshi Vs. Seema Bajaj and Others and Anita Rani Mehra and Others Vs. Neena Kapoor*** reported in ***Manu/DE/7404/2026*** and would submit that, in the aforesaid decision, the stand of the Union of India has been recorded by the Division Bench, wherein, the Union of India had categorically stated that an accused is entitled to receive the copies of the relied upon documents for a meaningful hearing at the pre-cognizance stage itself.

8. The learned counsel appearing for the petitioner would also rely upon a judgment of the learned Single Judge of this Court in the case of ***Seeman Vs. Varun Kumar*** reported in ***2025 SCC Online Mad 11445*** and would submit that it has been made clear by the learned Single Judge while interpreting the first proviso to Section 223(1) of the BNSS that it is mandatory for the prosecution to furnish the copies of the relied-upon documents to the accused at the pre-cognizance stage itself.

9. On the other hand, the learned Special Public Prosecutor appearing for the respondent would submit as follows:

a. The decision of the Hon'ble Supreme Court in ***Sarla Gupta Case,*** referred to supra, clearly applies to the facts of the instant case. He would submit that it has been made clear in ***Sarla Gupta case*** by the

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Hon'ble Supreme Court that only in the post cognizance stage, the legal right is vested with the accused to receive copies of the relied-upon documents from the prosecution in a PMLA case.

b. The decision of the Madhya Pradesh High Court in the case of ***Vinay Prakash Singh @ Deepu Singh Vs. Pushpendra Singh @ Dimple Singh and Others*** reported in ***MCRC-17776-2026*** dated 08.05.2026 has made the legal position clear. As seen from Paragraph No.6 of the said judgment, there is no vested right given to the accused to receive copies of the relied-upon documents. It has also been made clear in the said decision that the first proviso to Section 223(1) of the BNSS is intended to ensure that the accused is heard before cognizance is taken. However, such opportunity does not automatically translate into an obligation to supply the entire evidence at the threshold stage. If the request of the petitioner has to be necessarily accepted, the petitioner will have the opportunity to receive documents both in the pre-cognizance stage as well as in the post-cognizance stage, which is not the intention of legislature.

10. The learned Special Public Prosecutor for the respondent would submit that in the Madhya Pradesh High Court decision, since the

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Madhya Pradesh High Court had taken into consideration the first proviso to Section 223(1) of the BNSS which is relied upon by the petitioner, the ratio laid down by the Madhya Pradesh High Court, in the said decision is squarely applicable and therefore, the petitioner is not entitled to receive copies of the relied-upon documents at the pre-cognizance stage. He would submit that the Trial Court has rightly rejected the petitioner's request.

11. The learned Special Public Prosecutor for the respondent would also submit that the documents furnished by the Enforcement Directorate to the accused in two other cases cited by the petitioner cannot be relied upon by the petitioner, since in both these cases the question that arises for consideration in this petition was not considered by the trial Court. He would submit that, initially, the Enforcement Directorate had raised objection for furnishing copies of the relied upon documents in those cases as well. But only thereafter, the copies were furnished to the accused therein in the pre-cognizance stage. He would also submit that the accused in those cases withdrew their applications seeking for a direction from the trial court for furnishing copies of the relied-upon documents at the pre-cognizance stage and only thereafter, the Enforcement Directorate had furnished the copies of those documents to

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the accused. On the other hand, the learned counsel appearing for the petitioner would submit that only on the assurance given by the Enforcement Directorate that they will furnish the copies of the relied - upon documents, the accused in those cases withdrew their applications and only thereafter, the documents were furnished to the accused.

12. The learned Special Public Prosecutor would also submit that the decision of the learned Single Judge of this Court in the case of ***Seeman Vs. Varun Kumar*** reported in ***2025 SCC Online Mad 11445*** does not apply to the facts of the instant case, as, he would submit that said decision did not deal with a PMLA case but dealt with a private complaint under CrPC for offence under the IPC.

Discussion:

13. The decision in this petition depends upon the interpretation of the term "opportunity of being heard" as found in the first proviso to Section 223(1) of BNSS, 2023. Section 223 (1) of BNSS, 2023 reads as follow:

> *"**Section 223 - Examination of complainant.***
>
> *223. (1) A Magistrate having jurisdiction while taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses*

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present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate:

Provided that no cognizance of an offence under this section shall be taken by the Magistrate without giving the accused an opportunity of being heard:

Provided further that, when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses—

(a) if a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint; or

(b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under section 212:

Provided also that if the Magistrate makes over the case to another Magistrate under section 212 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them."

[Emphasis supplied]

14. By relying upon the judgment of the Hon'ble Supreme Court in ***Sarla Gupta's*** case, the trial Court under the impugned order rejected the petitioner's request for furnishing copies of the relied upon documents by the prosecution on the ground that the petitioner is not entitled for receiving copies of the documents relied upon by the prosecution during

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the pre-cognizance stage but they are entitled to receive documents only after the trial Court takes cognizance of the complaint. The first proviso to Section 223(1) of BNSS, 2023 was introduced under BNSS, 2023 and is in significant variance with Section 200 of the CrPC, 1973, pertaining to examination of complainant by the Magistrate for the purpose of taking cognizance of any complaint. As seen from ***Sarla Gupta's*** judgment referred to supra, as well as from various other judgments, it is settled law that the Section 223 of BNSS, 2023 would also apply to PMLA proceedings. The first proviso to Section 223(1) of BNSS, 2023, has been introduced in BNSS, 2023, to avoid frivolous and vexatious criminal complaints from being taken cognizance by criminal courts. Only with that objective, the accused is granted an opportunity of being heard by the Magistrate at the pre-cognizance stage itself.

15. Section 223 BNSS applies even to pre-BNSS PMLA complaints, where cognizance is taken post-BNSS. In ***Parvinder Singh*** *Vs.* ***Directorate of Enforcement*** *reported in* ***2026 INSC 519,*** the Hon'ble Supreme Court clarified the scope and effect of the first proviso to Section 223(1) of BNSS, 2023, holding that an accused must be afforded an opportunity of hearing before cognizance is taken on a complaint and that non-compliance with such requirement renders the proceedings *void*

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ab initio, even in money laundering matters. The case arose out of proceedings under the Prevention of Money Laundering Act, 2002, where a complaint had been filed by the Enforcement Directorate before the Special Court prior to the commencement of the BNSS. However, cognizance of the complaint was taken after the BNSS came into force and without granting an opportunity of hearing to the accused. The principal question before the Hon'ble Supreme Court was whether the first proviso to Section 223 (1) of the BNSS, which mandates that no cognizance of an offence shall be taken on a complaint without giving the accused an opportunity of being heard, would apply to such proceedings and whether failure to comply with the requirement would invalidate the order taking cognizance.

16. The Hon'ble Supreme Court in ***Parvinder Singh's*** case, referred to supra, examined the interplay between the procedural framework under the BNSS and proceedings under the PMLA. Reaffirming earlier decisions of the Hon'ble Supreme Court including ***Tarsem Lal*** *Vs.* ***Enforcement Directorate*** *reported in* ***(2024) 7 SCC 61,*** ***Yash Tuteja*** *Vs.* ***Union of India*** *reported in* ***(2024) 8 SCC 465*** *and* ***Kaushal Kumar Agarwal*** *Vs.* ***Directorate of Enforcement*** *reported in* ***(2025) SCC Online SC 1221,*** the Hon'ble Supreme Court held that once

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a complaint under Section 44(1)(b) of the PMLA is filed, the procedural provisions governing complaint cases under the CrPC / BNSS continue to apply, unless specifically included by the special enactment. Accordingly, the Hon'ble Supreme Court held that Sections 223 to 228 of the BNSS apply to proceedings under the PMLA and there being no inconsistency between the two enactments, the safeguard introduced under Section 223(1) must be given full effect.

17. In ***Parvinder Singh's*** case, referred to supra, the Hon'ble Supreme Court also held that the first proviso to Section 223(1) of the BNSS confers a substantive right upon the accused and is an extension of the constitutional guarantee of fair trial under Article 21 of the Constitution of India. The Hon'ble Supreme Court further observed that the use of the word 'shall' in the first proviso to Section 223 (1) to BNSS leaves no discretion with the Court and makes the compliance mandatory. The Hon'ble Supreme Court while emphasizing the consequences of non-compliance has categorically held in ***Parvinder Singh's*** case that cognizance of an offence in a PMLA proceeding taken by a Court without due compliance of the first proviso to Section 223(1) of BNSS would be *void ab initio.* Therefore, it is clear that denial of hearing at the stage of cognizance is not a curable procedural irregularity but an

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illegality that goes to the root of the jurisdiction. The significant aspect of ***Parvinder Singh's*** judgment is that the Supreme Court clarified regarding the applicability of BNSS to complaints instituted before 01.07.2024, when BNSS came into force, but in which cognizance was taken subsequently. The Hon'ble Supreme Court clarified that substantive procedural safeguards introduced under BNSS would continue to apply where judicial proceedings had not reached the stage of inquiry before commencement of the new law.

18. It is also to be noted that the learned Special Public Prosecutor for the Enforcement Directorate, on instructions did not dispute the fact that in similar PMLA cases, involving the case of ***Manthiramoorthy in ECIR NO.ECIR / MDSZO / 21 / 2020*** and in the case of ***M.R.Ganesh in ECIR / CEZO-II/13/2023,*** the Enforcement Directorate had furnished the copies of the relied upon documents to the accused in the pre-cognizance stage and to make a departure in the present case does not stand scrutiny. In another decision of a learned Single Judge of this Court, relied upon by the learned Counsel for the petitioner, in the case of ***Seeman*** *Vs.* ***Varun Kumar*** *reported in* ***2025 SCC Online Madras 11445,*** it was also held by the learned Single Judge, while interpreting the first proviso to Section 223 of BNSS, that it is mandatory for the prosecution to furnish copies of

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the relied upon documents to the accused in the pre-cognizance stage itself. Though the learned Single Judge in the aforesaid decision was not dealing with a PMLA proceeding, the said decision applies to PMLA proceeding as well as the Hon'ble Supreme Court has settled the issue by holding that the first proviso to Section 223 of the BNSS also applies to PMLA proceedings. The decision of a learned Single Judge of the Madhya Pradesh High Court in the case of ***Vinay Prakash Singh @ Deepu Singh Vs. Pushpendra Singh @ Dimple Singh and Others*** reported in ***MCRC-17776-2026,*** dated 08.05.2026, relied upon by the learned Special Public Prosecutor appearing for the Enforcement Directorate is *per incuriam*, in view of the law laid down by the Hon'ble Supreme Court in ***Parvinder Singh's*** case and ***Sarla Gupta's*** case. Further, the decision of the learned Single Judge of the Madhya Pradesh High Court referred to supra, is not binding on this Court and further, we do not agree with the view taken by the Madhya Pradesh High Court in the aforesaid decision.

19. Under the principles of natural justice, specifically, the doctrine of *Audi alterum partem* (hear the other side), any hearing cannot be considered fair, meaningful or reasonable unless the defending party knows the exact case they have to meet. The scope of the A*udi alterum*

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partem principle encompasses several core legal concepts. An opportunity of hearing is not a mere empty formality. For it to be legally valid, the deciding authority must disclose all relevant evidence and documents intended to be used against the defending party. The defending party must be given a meaningful opportunity to rebut that specific evidence. If they do not possess the documents, an effective rebuttal or cross-examination is impossible. In criminal matters and statutory complaints such as under the BNSS or the provisions of PMLA, the accused has a constitutional and legal right to access all material evidence intended for use against them, including the complaint, witness statements and electronic evidence.

20. The ***Sarla Gupta*** decision rendered by the Hon'ble Supreme Court referred to supra was dealing with an offence under the PMLA at the post-cognizance stage. It was also dealing with a prosecution under the PMLA when BNSS, 2023 was not legislated and when the repealed Criminal Procedure Code, 1973 was in force. The said fact is also not disputed by the learned Special Public Prosecutor appearing for the respondent during the course of his arguments. In ***Sarla Gupta's*** case, rendered by the Hon'ble Supreme Court referred to supra, the Hon'ble Supreme Court directed the enforcement Directorate to furnish copies of

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the documents to the accused, even if those documents are not relied upon documents by the prosecution in a PMLA proceeding, if it aids the defence of the accused.

21. The Supreme Court in ***Sarla Gupta's*** case has held that procedural fairness in PMLA cases cannot be compromised by virtue of the statute's special status. The Supreme Court held that the special nature of the statute makes it all the more important to ensure that the accused person receives a fair trial and an adequate opportunity to defend themselves. The Supreme Court held that the accused at the post-cognizance stage in proceedings under the PMLA is entitled to receive true and legible copies of all documents accompanying the prosecution complaint filed by the Enforcement Directorate and of all records or instruments seized from their custody under Sections 17 & 18 of the PMLA, regardless of whether the Enforcement Directorate relies upon them or not. The Hon'ble Supreme Court came to the aforesaid decision only after recognizing the reverse burden imposed on the accused under Section 24 of the PMLA, 2002 and the constitutional guarantee of a fair trial under Article 21 of the Constitution of India. Section 24 of the PMLA, 2002 is reproduced hereunder:

> **"Section 24 – Burden of Proof.** *—In any proceeding relating to proceeds of crime under this Act,—*

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(a) in the case of a person charged with the offence of money-laundering under section 3, the Authority or Court shall, unless the contrary is proved, presume that such proceeds of crime are involved in money-laundering; and

(b) in the case of any other person the Authority or Court, may presume that such proceeds of crime are involved in money-laundering"

22. As seen from the aforesaid Section, unlike standard Indian Criminal jurisprudence, where the prosecution has to prove every element of the offence beyond reasonable doubt, and the accused is presumed innocent, Section 24 of the PMLA shifts the onus to the accused. While that be so, the term "opportunity of being heard" found in the first proviso to Section 223 (1) of BNSS, 2023, has to be given a purposive interpretation in favour of the accused to avoid frivolous, vindictive, foisted and vexatious complaints being filed under the provisions of PMLA. Eventhough, the ***Sarla Gupta's*** case rendered by the Hon'ble Supreme Court was dealing with a situation in a post-cognizance stage, the principle laid down in the said decision with regard to furnishing of relied / not relied documents will have to be applied to a situation where the accused at the pre-cognizance stage is requesting for copies of the documents relied upon by the prosecution in support of the prosecution as

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the Hon'ble Supreme Court in ***Sarla Gupta's*** case has made it clear that procedural fairness in PMLA cases cannot be refused by virtue of the statute's special status. In fact, the special nature of the statute which recognises the reverse burden imposed on the accused under Section 24 of the PMLA and the constitutional guarantee of the fair trial under Article 21 of the Constitution, makes it all the more important to ensure that the accused persons receive a fair trial and they are given an adequate opportunity to defend themselves in the prosecution launched by the Enforcement Directorate.

23. The judgment relied upon by the Hon'ble Supreme Court in ***Sarla Gupta's*** case seamlessly harmonises CrPC with the PMLA. The Supreme Court reiterates Section 65 of the PMLA does not merely permit, but in fact mandates the application of CrPC provisions to PMLA proceedings unless the conflict is demonstrated. Section 65 of the PMLA, 2002, is reproduced hereunder:

> **"Section 65.** ***Code of Criminal Procedure, 1973 to apply.***— *The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply, in so far as they are not inconsistent with the provisions of this Act, to arrest, search and seizure, attachment, confiscation investigation, prosecution and all other proceedings under this Act."*

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24. The Supreme Court in ***Sarla Gupta's*** case has also imported the provisions such as Sections 204, 233 and 243 CrPC into the PMLA framework – not as an afterthought, but as a primary mechanism by which fairness is preserved. The incorporation of sessions trial provisions at the post–cognizance stage by the Supreme Court reinforces this position, establishing that the CrPC continues to operate as the procedural back bone of PMLA trials.

25. The term "opportunity of being heard" found in the first proviso to Section 223 (1) of BNSS, 2023, which applies to pre-cognizance stage should not become an empty formality by not legally entitling the accused to be furnished with copies of the documents relied upon by the prosecution under the PMLA, 2002. This is the reason, the Allahabad High Court ruled in ***Supreme Technofabs Private Limited*** *Vs.* ***Directorate of Enforcement and Anil Kumar Khemka*** *Vs.* ***Directorate of Enforcement U.P., in its decision*** *dated* ***03.04.2026*** *reported in* ***Manu / UP / 0358 / 2026,*** that an accused in Prevention of Money Laundering Act [PMLA proceedings] has a legal right to be furnished with copies of documents and statements, including pre-cognizance records. The Allahabad High Court held that the first proviso to Section 223 of BNSS mandates pre-cognizance opportunity of hearing for the accused, which

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enables the accused to receive the relied upon documents by the prosecution in the pre-cognizance stage itself.

26. Therefore, the term "opportunity of being heard" found in the first proviso to Section 223 of BNSS, 2023, makes it clear that the accused has a legal right to be furnished with copies of all documents and statements relied upon by the prosecution at the pre-cognizance stage itself in a PMLA proceeding. The first proviso to Section 223(1) of BNSS (a) ensures a fair trial (b) enables effective cross-examination (c) prevents prejudice ie., withholding documents relied upon by the prosecution creates an unfair **opportunity** and directly prejudice the case of the accused, which can vitiate the entire proceeding.

27. Under the impugned order, passed by the learned Principal Sessions Judge, Madurai, the Court had misconstrued ***Sarla Gupta's*** case rendered by the Hon'ble Supreme Court, which was not dealing with furnishing of documents to the accused in a PMLA proceeding at the pre-cognizance stage but was dealing with furnishing of documents to the accused at the post-cognizance stage. In ***Sarla Gupta's*** case, the Hon'ble Supreme Court never held that the accused in a PMLA proceeding is not entitled to be furnished with copies of documents relied upon by the

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Enforcement Directorate in the pre-cognizance stage. The trial court has also erroneously not followed the decision of the Allahabad High Court in ***Supreme Technofabs Private Limited Vs. Directorate of Enforcement and Anil Kumar Khemka Vs. Directorate of Enforcement U.P.*** reported in ***Manu / UP / 0358 / 2026,*** as the Allahabad High Court has correctly held that the accused in a PMLA proceeding is entitled to receive the relied upon documents by the prosecution even in the pre-cognizance stage. The ratio laid down by the Allahabad High Court judgment in ***Supreme Technofabs Private Limited's*** case is only in accordance with the principles laid down by the Hon'ble Supreme Court in ***Sarla Gupta's*** case, ***Parvinder Singh's*** case and other decisions reflected in this order.

28. If the impugned order of the Trial Court is allowed to be sustained, it will lead to travesty of justice, as it will defeat the objective of the first proviso to Section 223 of the BNSS which makes it clear that the "opportunity of hearing" to be provided to the accused should not be a mere empty formality.

29. The first proviso to Section 223(1) of BNSS has introduced a revolutionary pre-cognizance hearing for the accused, reshaping the intersection of anti money laundering litigation and constitutional law.

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The Hon'ble Supreme Court has changed the dynamic of PMLA prosecutions by ruling that the pre-cognizance hearing under Section 223 (1) BNSS applies by its own force to prosecution complaints filed by the Enforcement Directorate. It has been formally established that any cognizance taken by the Special Court under the PMLA without providing the mandatory hearing to the accused is void ab initio and jurisdictionally invalid.

30. We deem it appropriate to clarify the nature of the hearing contemplated under the first proviso to Section 223(1) of the BNSS. The opportunity provided to the accused at the pre-cognizance stage is not meant to turn the stage of cognizance into a roving inquiry into the merits or demerits of the case. The BNSS has added a right of hearing at this stage, but it has not changed the nature of the exercise the Court performs while taking cognizance. In other words, the determination at this stage can only be as to whether there exists a prima facie case and whether judicial notice/cognizance should be taken. The probability of defence cannot be tested at this stage. The Hon'ble Supreme Court, in ***Sonu Gupta v. Deepak Gupta and Others***, reported in **(2015) 3 SCC 424**, held as follows:

> *"8. … At the stage of cognizance and summoning the Magistrate is required to apply his judicial mind only with a view to take cognizance*

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of the offence, or, in other words, to find out whether prima facie case has been made out for summoning the accused persons. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor he is required to evaluate the merits of the materials or evidence of the complainant, because the Magistrate must not undertake the exercise to find out at this stage whether the materials would lead to conviction or not."

31. The first proviso to Section 223(1) of the BNSS has not altered this settled position. It only enables the accused to point out, before cognizance is taken, that the complaint does not disclose the ingredients of the offence alleged, or if there is a legal bar to proceed with it. The right to be heard is a shield for the accused. It is not a sword with which he may dissect the prosecution's case or project his defence at the threshold. The accused cannot, at this stage, put forward his defence, produce documents in support of it, or call upon the Court to weigh the evidence of the prosecution. In ***State of Orissa v. Debendra Nath Padhi, reported in (2005) 1 SCC 568***, the Hon'ble Supreme Court held that the accused has no right to produce any material even at the stage of framing of charge. The accused certainly cannot do so at the earlier stage of taking cognizance. Therefore, when the Court hears the petitioner after the documents are supplied, it shall confine itself to the question whether the complaint and the relied-upon documents disclose a prima facie case under Section 3 of the PMLA. It shall not embark upon an evaluation of the merits of the case.

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32. For the foregoing reasons, the Principal Sessions Court, Madurai has committed a grave error in the impugned order dated 31.08.2026 passed in Crl.M.P.No.3212 of 2026, by dismissing the Miscellaneous Petition filed by the petitioner to direct the Enforcement Directorate to furnish copies of all relied upon documents to him as under the first proviso to Section 223(1) of BNSS, the petitioner has a statutory right to receive the relied upon documents in the pre-cognizance stage itself.

33. In the result, the impugned order dated 31.08.2026 passed in Crl.M.P.No.3212 of 2026 in un-numbered C.C.----/2026, passed by the Principal District and Sessions Judge, Madurai, is hereby quashed and this Criminal Original Petition is allowed, by directing the respondent to furnish copies of all the relied upon documents in un-numbered C.C.----/2026 to the petitioner within a period of four [4] weeks from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed.

(A.Q.,J.) (R.P.L.,J.)
05-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

1. The Assistant Director
   Directorate of Enforcement
   Chennai Zone-II
   Chennai

2. The Additional Public Prosecutor
   Madurai Bench of Madras High Court
   Madurai

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ABDUL QUDDHOSE, J.
AND
RAJNISH PATHIYIL, J.
MR

PRE-DELIVERY ORDER MADE IN
CRL OP(MD) No. 21716 of 2026

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