

SC sets ground rules for transparency in PMLA arrests

**Vasanth Rajasekaran
Harshvardhan Korada**

The Supreme Court of India (SC), in a recent decision in *Pankaj Bansal vs Union of India*, delved into an important point of law — how is the enforcement directorate (ED) required to “inform” persons arrested under the Prevention of Money Laundering Act, 2002, (PMLA) of the grounds of their arrest.

Section 19 of the PMLA, while providing that the accused must be informed of the grounds of the arrest, does not explain how the arrested person is to be informed. Earlier decisions of the apex court in the case of Vijay Madanlal Choudhary and V Senthil Balaji were also found to be only ac-

knowledging that the information on the grounds of arrest should be “served” on the arrestee but did not elaborate further.

The SC opined that Article 22 of the Constitution mandated that an arrested individual must be promptly informed of the reasons for their arrest. The court recognised the potential risk of disputes arising due to conflicting accounts from the prosecution and the accused when the grounds for arrest are merely read out to the detained person without formal documentation.

To avoid such situations, the court proposed a straightforward remedy — furnishing the written grounds for arrest and receiving a proper acknowledgement from the accused.

The Supreme Court’s decision in *Pankaj Bansal* case marks a sig-



BE FAIR & TRANSPARENT. Give grounds of arrest in writing, says SC

nificant milestone in the realm of criminal jurisprudence of cases falling under the PMLA. By requiring written grounds for arrest, the decision ensures that the accused individuals have a clear understanding of why they are being apprehended. This transparency would not only inspire confidence and build trust and fairness in the legal system but

also mitigate the risk of arbitrary and unlawful arrests.

In addition to increased transparency, the decision will foster better corporate governance. Knowing the grounds for arrest would allow businesses to address vulnerabilities within their operations, reducing the likelihood of money laundering or other financial crimes. Further, corporations can also take steps to prevent potential proliferation of illegal activities and improve compliance with anti-money laundering laws.

Many multinational corporations and even larger Indian companies often have their own internal ethics compliance requirements and teams. When the grounds for arrest are made known, corporations of this stature can conduct parallel in-

ternal investigations more effectively and make informed decisions about potential legal actions. Improved transparency would permit cross-jurisdictional corporations to respond appropriately to legal challenges and uphold their commitment to ethical business practices.

The decision in *Pankaj Bansal vs Union of India* is, therefore, a significant step towards enhancing transparency, accountability, and fairness in the arrest procedures under PMLA. It empowers accused individuals, promotes better corporate governance and contributes to a more equitable and cooperative relationship between businesses and law enforcement agencies.

The writers are advocates at Trinity Chambers, Delhi.