

CT Cases/43/2025
under sections 44 and 45 of PMLA, 2002
ED v. Surender Kumar Bhandoria

31.01.2026

(Present proceedings have been conducted on Hybrid Mode)

Pr: Mr. Atul Tripathi, Ld. Special PP for ED with Advocate Mr. Gaurav Mani Tripathi, both physically present.
Mr. Naveen Kumar and Mr. Abhishek Mahal, Ld. Counsels for the proposed accused, physically present.
Proposed accused Surender Kumar Bhandoria, through VC.

1. Arguments on the application dt. 17.12.2025 under section 230 of BNSS, 2023 of proposed accused Surender Kumar Bhandoria were heard on 27.01.2026. Record perused.

2. The proposed accused filed this application seeking the following reliefs:

- a) Supply of list of unrelieved-upon documents and the unrelieved-upon statements, and
- b) Supply of legible copies of the complaint and the relied-upon documents.

3. During the course of proceedings in this case, legible copies of the complaint and the relied-upon documents were supplied to the proposed accused to his satisfaction. Accordingly, this application of the proposed accused qua relief (b), namely the supply of legible copies of the complaint and the relied-upon documents, stands satisfied.

4. Consequently, the limited relief that now survives for consideration in the instant application is qua relief (a), namely supply of the list of unrelieved-upon documents and the unrelieved-upon

statements of witnesses of the Enforcement Directorate (for short the 'ED').

5. ED did not file reply to this application. Learned Special PP for ED argued on this application straightaway without filing any reply.

6. This is a complaint, filed on 12.11.2025, under sections 44/45 of Prevention of Money Laundering Act, 2002. Vide order dt. 13.11.2025 notice was issued to the proposed accused in terms of the first Proviso to section 223 of BNSS, 2023. The proposed accused then entered appearance before this Court. Thereupon, on 28th November, 2025 copy of the complaint and the annexures (total 254 pages) were supplied to the proposed accused against acknowledgment. It was then that this application came to be filed.

7. In support of their contention that ED must supply to the proposed accused the list of unrelieved-upon documents and unrelieved-upon statements of its witnesses notwithstanding the fact that cognizance of offence(s) is not yet taken, learned counsels Mr. Naveen Kumar and Mr. Abhishek Mahal relied on an Apex Court judgment reported as Criminal Trial Guidelines regarding Inadequacies and Deficiencies, in Re, v. State of Andhra Pradesh & Ors., (2021) 10 SCC 598. They urged that the prosecution must act fairly and make a complete disclosure of all its relied-upon material and along with a list of all the unrelieved-upon material and supply the same to proposed accused so that he (proposed accused) is not hampered in making his submissions on the point of cognizance. In their instant application, they have also referred to the following judgments : (i) Arvind Kejriwal & Anr. v. State NCT of Delhi, 2020

SCC OnLine Del 1362; (2021) 278 DLT 193; (ii) Ashutosh Verma v. CBI, 2014 SCC OnLine Del 6931; (iii) State of Kerala v. Raghavan, 1974 Cr. L.J. 1373; (iv) Dheeraj Wadhawan v. CBI, 2023 SCC OnLine Del 4870; and (v) P. Gopalkrishnan v. State of Kerala, (2020) 9 SCC 161.

8. Learned Special PP for ED vehemently opposed this application. He contended that at this stage of pre-cognizance hearing the ED is not bound to supply list of the unrelied-upon documents and the unrelied-upon statements, and for this he relied on an Apex Court judgment dt. 07.05.2025 in the matter of Sarla Gupta & Anr. v. Enforcement Directorate, (2025) 7 SCC 626. It was his submission that the judgment of Criminal Trial Guidelines regarding Inadequacies and Deficiencies, in Re relied upon on behalf of the proposed accused is inapplicable at this stage of pre-cognizance hearing for reasons more than one. Firstly, the said judgment was rendered, before the enactment of BNSS, under the Criminal Procedure Code, 1973. Secondly, this Court is still to take cognizance of the offence(s) and the stage of sections 230/231 of BNSS (corresponding to sections 207/208 CrPC) has not yet arrived. He contended that if this demand of the proposed accused were to be acceded to, namely, the supply of list of unrelied-upon documents and unrelied-upon statements, it would inevitably be followed by yet another application seeking inspection of those materials, thereby occasioning substantial and unwarranted delay in the court taking cognizance of the offence(s). He therefore urged that such a demand is wholly premature, and that the appropriate and legally permissible stage for considering any such request of the proposed accused would arise only after cognizance of the offence(s) has been taken.

9. In rebuttal, learned counsels for the proposed accused sought to distinguish Sarla Gupta (supra) by contending that the judgment of Criminal Trial Guidelines regarding Inadequacies and Deficiencies, in Re relied upon by them was one under Article 32 of the Constitution of India and it issued binding directions to all criminal courts governing the conduct of criminal trials.

10. Court findings are as under.

11. Under section 223 of the BNSS, 2023, an opportunity is required to be afforded to the proposed accused prior to taking cognizance of the offence(s) in proceedings arising out of a complaint case. However, the statutory provision for furnishing copies of documents and statements of witnesses to him in a complaint case is contained at a subsequent stage, namely under section 231 of the BNSS, 2023. Once the proposed accused is called upon to address the Court on the question of taking cognizance of the offence(s), it is quite evident that such submissions cannot be expected to be made in a vacuum, without him knowing the allegations levelled against him or even the specific provisions of law under which the criminal complaint has been instituted and for which he is sought to be prosecuted. The point, therefore, is that although the statutory provision for supply of copies of documents and statements of witnesses to the proposed accused in a complaint case is placed at a later stage in the scheme of the statute, namely under section 231 of the BNSS, 2023, such supply would necessarily have to be effected at the pre-cognizance stage itself. Any other interpretation would defeat the very purpose of affording an opportunity to the proposed accused under section 223 of the BNSS,

2023. If the proposed accused is called upon to make submissions on the question of taking cognizance of the offence(s) without being furnished with the relevant materials forming the basis of the complaint, the opportunity so granted would be illusory and devoid of substance. In such circumstances, the entire exercise of granting a hearing at the pre-cognizance stage would stand rendered nugatory, reducing a statutory safeguard to a mere formality rather than a meaningful right.

12. If the submissions advanced by learned Special Public Prosecutor for the ED are accepted, the consequence would be that, although the proposed accused is granted an opportunity to make submissions at the stage of taking cognizance, the material necessary to facilitate such submissions would be supplied only in *part*, with the list of the unrelieved-upon materials being furnished only after cognizance is taken. I find no justification for such a piecemeal or half-hearted approach. One would not really know in advance whether the unrelieved-upon material contains any document, statement, or other material that may favour the accused and/or may have a vital bearing on the *lis* even at the stage of taking cognizance of offence(s). This would only be known once such a list of the unrelieved-upon material is disclosed. That apart, one would wonder as to why the prosecution does not carry its submission that the stage of supply of documents under the extant statute is after the stage of cognizance of the offence(s) and as a follow up deny altogether the supply of the documents at the pre-cognizance stage. However, the prosecution does not do so. It adopts a half-hearted measure and asserts that it will supply the list of unrelieved-upon material only after cognizance is taken. But then, why not supply such a list at this stage

itself. It is difficult to conceive what prejudice, if any, would be caused to ED by supplying the list of unrelayed-upon material in this *lis* at the pre-cognizance stage itself. No such apprehension of prejudice was cited at Bar by the ED. On the contrary, furnishing such a list would only advance the interests of fairness, for it would enable the proposed accused to make meaningful and effective submissions on the issue of cognizance.

13. A judgment quite apposite to the issue at hand would be that of S. P. Velumani v. Arappor Iyakkam & Ors., (2022) 12 SCC 745. This was a case where during the course of hearing in a writ petition, directions were issued for inquiry by a Senior Level Officer who submitted her preliminary inquiry report to a department which was then submitted before the High Court in a sealed cover. In the meantime, the State Government decided to close the case based on the preliminary inquiry report. Even while the writ petition was *sub judice*, the political dispensation of the State changed and in a turn of events a new State Government went back on their earlier stand to close the case and instead intended to conduct investigation. FIR was then registered. An application was then filed before the High Court in the writ petition for copy of the preliminary inquiry report and the associated documents. The High Court turned down this application. The Apex Court allowed the appeal and held that copy of the preliminary inquiry report and the associated documents ought to have been supplied and there was no merit in State's contention that the said documents could be accessed only after cognizance was taken and in terms of the provision of section 207 CrPC. Apex Court observed that mandate of section 207 of CrPC cannot be read as a provision etched in stone to cause serious violation of rights of an

accused as well as to the principles of natural justice, and that prosecution ought to be carried out in a manner consistent with right of fair trial as enshrined under Article 21 of Constitution of India.

14. Another judgment quite apposite to the issue at hand is that of Reliance Industries v. SEBI, (2022) 10 SCC 181. This was a case where a criminal complaint was dismissed as being barred by limitation. Revision was then filed before the High Court where the accused sought copies of the documents annexed with the criminal complaint. However, this request was turned down by the High Court holding that the question of supply of such documents would arise only after the principle question of limitation was addressed. The decision of the High Court was reversed in appeal by the Apex Court. Apex Court held that the prosecution must act fairly and the accused cannot be condemned without giving an adequate opportunity to defend himself; that such adequate opportunity to defend is premised on the principle that there ought to be full disclosure of the material that is filed in the Court; that even for the purposes of adjudication of condonation of delay under section 473 of CrPC there must be full disclosure of the criminal complaint and the annexures.

15. Applying the dictum laid down in S. P. Velumani (*supra*) and in Reliance Industries (*supra*) it is this Court's considered view that furnishing the list of unrelayed-upon material at the pre-cognizance stage would enable the proposed accused to place more informed, meaningful, and effective submissions before the Court on the question of cognizance. On the contrary, failure to do so may result in serious violations of the principles of natural justice, for it would

impede the proposed accused from making efficacious and purposeful submissions on the question of cognizance of the alleged offence(s).

16. Reference here can also be had to V. K. Sasikala v. State, (2012) 9 SCC 771 wherein it has been held that Public Prosecutor's duty extends to ensuring fairness in the proceedings and also to ensure that all relevant facts and circumstances are brought to Court's notice for a just determination of the truth so that due justice prevail; that a duty is cast on the prosecution to make a fair disclosure to the Court; that an established facet of a just, fair and transparent investigation is an accused's right to ask for all such documents that he may be entitled to; that even where a document is not relied upon by the prosecution, but if it is sought by the accused for the purpose of establishing his defence, he is entitled to be furnished with the same, and that a document collected during investigation, which has a bearing on the discovery of the truth, must be disclosed to the accused.

17. Aside from the above, it is my view that *de hors* the aspect of the proposed accused being supplied with the list of the unrelieved-upon material at the pre-cognizance stage, this Court is well within its domain to seek such a list. As already stated hereinabove, one does not really know whether the unrelieved-upon material contains any document, statement, or other material that may have a vital bearing on the point of taking cognizance of offence(s).

18. The judgment of Sarla Gupta (*supra*), relied upon by learned Special Public Prosecutor for ED is no authority for the proposition that at the pre-cognizance stage the list of the unrelieved-upon

documents cannot be supplied to the proposed accused.

19. In view of the above, it is hereby directed that ED shall supply a list of the unrelieved-upon material, unrelieved-upon documents and the unrelieved-upon statements of witnesses to the proposed accused on or before the next date of hearing. This disposes of the aforesaid application of the proposed accused.

20. List on 23.02.2026.

(M. P. Singh)
Special Judge (PC Act) CBI-02
RACC/New Delhi/31.01.2026