IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2237 of 2025

Ratikanta Rout **....** ***Petitioner(s)***

Mr. Y. Das, Sr. Adv.
Along with Mr. S.R. Mulia, Adv.

-versus-

Deputy Director, Enforcement Directorate, Bhubaneswar Zonal Office, Bhubaneswar and Ors. **....** ***Opposite Party(s)***

Mr. Partha Sarathi Nayak, AGA
Mr. Bibekananda Nayak, AGA
Retained counsel for ED

CORAM:
DR. JUSTICE SANJEEB K PANIGRAHI

Order No. **ORDER**
13. **21.01.2026**

1. This matter is taken up through hybrid arrangement
2. Heard learned counsel for the parties.
3. The Petitioner has instituted the present Criminal Miscellaneous Case under Section 482 of the Code of Criminal Procedure, 1973/ Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, invoking inherent jurisdiction of this Court, with a prayer to quash the Provisional Attachment Order No.05/2025 under Section 5(1) of the Prevention of Money Laundering Act, (PMLA), 2002 in ECIR No.BBZO/20/2020 of Directorate passed by the Enforcement, Bhubaneswar Zonal Office vide Annexure-2 of the petition.
4. The brief facts of the case are that, pursuant to Letter No. 415/Con. dated 04.11.2019 issued by the Superintendent of Police, Dhenkanal, requesting initiation of action under the Prevention of Money-

Laundering Act, 2002 against the Petitioner on the basis of certain FIRs and charge-sheets alleging scheduled offences, the Enforcement Directorate registered an ECIR bearing No. ECIR/BBSZO/20/2020 dated 31.03.2020 and commenced investigation under Section 2(1)(na) read with Section 50 of the Prevention of Money-Laundering Act, 2002.

5. Learned counsel for the Petitioner further submits that the Enforcement Directorate registered an ECIR bearing No. ECIR/BBSZO1/D/12/20 dated 31.03.2020 and commenced investigation thereunder. After an extensive investigation spanning over four years, including examination of bank records, business transactions, statements of the Petitioner's family members, and scrutiny of the bank accounts of the Petitioner and his family members, the Enforcement Directorate concluded that the Petitioner had allegedly generated proceeds of crime to the tune of Rs. 25,08,935/-.

6. Accordingly, three bank accounts of the Petitioner maintained with Axis Bank, Punjab National Bank, and ICICI Bank, bearing Account Nos. 914010024046988, 3216000100065459, and 077501002355 respectively, having total deposits amounting to Rs. 25,08,935/-, were provisionally attached by the Deputy Director, Enforcement Directorate, vide Provisional Attachment Order No. 06/2024 dated 21.08.2024.

7. Pursuant to the said provisional attachment, the Enforcement Directorate filed an Original Complaint before the learned Adjudicating Authority, New Delhi, being O.C. No. 2397/2024, which was confirmed by the learned Adjudicating Authority vide order dated 30.12.2024 under Section 8(3) of the Prevention of Money-Laundering Act, 2002.

8. Aggrieved by the said order, the Petitioner has preferred an appeal before the learned Appellate Tribunal, New Delhi, being FPA-PMLA-289/2025, which is presently pending for adjudication.

9. Learned counsel for the Petitioner further contends that during the pendency of the aforesaid appeal, the Enforcement Directorate arbitrarily proceeded to pass a second attachment order viz. Provisional Attachment Order No. 05/2025 dated 23.03.2025/Annexure-2, issued at the behest of the then Deputy Director Shri Chintan Raghubansi, on the very same grounds and in respect of the same predicate offences. By the said order, the Enforcement Directorate attached the properties of the Petitioner, his wife, and his brother, on the allegation of purported excavation of black stone beyond the leased area of Karnada Black Stone Quarry Nos. 9 and 12 belonging to the Petitioner, thereby alleging generation of further proceeds of crime amounting to Rs. 35,13,67,637/-.

10. It is further submitted that the computation of the alleged proceeds of crime was premised solely on a report purportedly prepared by TKS Consultancy Services, a private entity, without any independent verification or statutory assessment. Subsequently, the said TKS Consultancy Services, by way of a written communication, categorically stated that it had not conducted any survey of the Petitioner's quarry and further alleged that the then Deputy Director Shri Chintan Raghubansi had attempted to coerce its representative into signing a report prepared by the Enforcement Directorate itself, which the said entity expressly refused to sign.

I. SUBMISSIONS ON BEHALF OF THE PETITIONER:

11. Learned Sr. Counsel for the Petitioner, Mr. Y. Dash submits that the learned counsel appearing for the Enforcement Directorate fairly conceded that the second Provisional Attachment Order, being Provisional Attachment Order No. 05/2025, is bad in law and not tenable in the eye of law, and further stated that the Enforcement Directorate has no objection if the said Provisional Attachment Order No. 05/2025 dated 23.03.2025 (Annexure-2) is quashed by this Court.

12. He further submits that the second provisional attachment is wholly illegal and contrary to the scheme and object of the statute which smacks a manifest colourable exercise of power, brought about solely on account of a change of the concerned officer, rather than any emergence of fresh incriminating material. The impugned action, it is contended, is vitiated by legal malice, having been initiated for reasons extraneous to the purposes of the Prevention of Money-Laundering Act, 2002.

13. It is further submitted that the then Deputy Director of the Enforcement Directorate, Shri Chintan Raghuvanshi, had allegedly demanded illegal gratification from the Petitioner and that, upon the Petitioner's categorical refusal to accede to such unlawful demand, the impugned second provisional attachment order came to be issued as an act of retaliation. The sequence of events, viewed cumulatively, clearly demonstrates that the exercise of power was not in furtherance of any bona fide statutory objective, but was instead actuated by personal animus and collateral considerations.

14. Learned counsel further submits that the gravity of the aforesaid allegations is not merely speculative, inasmuch as, pursuant to a First Information Report lodged by the Petitioner, the said officer was arrested by the Central Bureau of Investigation in connection with the said allegations and was subsequently enlarged on bail by the competent court. These subsequent developments, it is submitted, lend substantial credence to the Petitioner's contention that the impugned second attachment is tainted by mala fides and is liable to be set aside on this ground alone.

II. SUBMISSIONS ON BEHALF OF THE OPP. PARTIES:

15. Learned counsel Mr. Partha Sarathi Nayak appearing for the Enforcement Directorate submits that the impugned Provisional Attachment Order No. 05 of 2025, pertaining to immovable properties valued at Rs. 14,09,12,940/-, was lawfully passed by the Authorized Officer in exercise of powers conferred under Section 5(1)

of the Prevention of Money-Laundering Act, 2002. It is submitted that the said provisional attachment was made upon the Authorized Officer forming a reason to believe, on the basis of material available on record, that the Petitioner was in possession of proceeds of crime.

16. It is further submitted that the formation of the requisite reason to believe has been duly recorded by the Authorized Officer in paragraph 9 of Provisional Attachment Order No. 05 of 2025 dated 23.05.2025/Annexure-2, and that all statutory prerequisites under the Prevention of Money-Laundering Act, 2002 have been strictly complied with.

17. Learned counsel for the Enforcement Directorate further contends that TKS Consultancy Services is a firm duly registered with the Odisha Space Application Centre (ORSAC) and, therefore, its technical competence and credibility cannot be questioned or discredited in collateral proceedings in the absence of any written order, adverse finding, or withdrawal of registration by the said statutory authority.

18. He further submits that, in terms of Section 5(1)(b) of the Prevention of Money-Laundering Act, 2002, a provisional attachment order passed by the Authorized Officer remains valid for a period of 180 days from the date of its issuance. It is submitted that where any property is provisionally attached under Section 5(1) of the Act, the Authorized Officer is mandatorily required, within a period of 30 days from the date of such attachment, to file a complaint before the

Adjudicating Authority, as defined under Section 2(1)(a) of the Act, setting out the facts and circumstances of such attachment.

19. He further submitted that upon receipt of such complaint, the Adjudicating Authority, in exercise of powers under Section 8(1) of the Act, and upon forming a reason to believe that a person has committed an offence under Section 3 of the Act or is in possession of proceeds of crime, is required to issue a notice of not less than thirty days to such person, calling upon him to indicate the sources of income out of which the attached property was acquired and to show cause as to why such property should not be declared as property involved in money-laundering.

20. Learned counsel further submits that, after affording due opportunity of hearing to the parties, if the Adjudicating Authority is satisfied that the property is involved in money-laundering, it is empowered under Section 8(3) of the Act to pass an order confirming the provisional attachment. In the present case, the impugned Provisional Attachment Order No. 05 of 2025 was passed by the Authorized Officer on 23.05.2025, and the statutory period of 180 days would expire on 19.11.2025, out of which 173 days have already elapsed as on date.

21. Learned counsel appearing for the Enforcement Directorate further contends that a provisional attachment order passed by the Authorized Officer is, by its very nature, subject to scrutiny and confirmation by the Adjudicating Authority under Section 8(3) of the

Prevention of Money-Laundering Act, 2002. It is submitted that Provisional Attachment Order No. 05 of 2025 does not attain finality upon its issuance and remains provisional until the Adjudicating Authority, after due adjudication, either confirms or sets aside the same in accordance with law.

22. In view of the aforesaid statutory scheme, learned counsel submits that the present CRLMC assailing the provisional attachment is premature, as the Petitioner has an efficacious statutory remedy before the Adjudicating Authority, which is yet to be exhausted.

23. Learned counsel for the Enforcement Directorate relied on the decision of the apex court in the case of ***Vijay Madanlal Choudhary and Others Vs. Union of India and others***[1] wherein it has been held that the Provisional Attachment proceeding is civil action of attachment. Therefore, the present proceeding initiated under Section 5(1) of PLMA Act is not outcome of criminal proceeding. Hence, the application under Section 528 of BNSS,2023 is not maintainable.

24. Learned counsel for the Enforcement Directorate, further submits that the provisional attachment order issued under Sub-Section 1 of Section-5 of the PMLA Act by the Authorized Officer is subject to scrutiny by the Adjudicating Authority under Sub-Section 1 of Section 8 of the PMLA Act. Where the Adjudicating Authority confirmed the attachment of the property. The aggrieved person may prefer an appeal as per Section 26 before the Appellate Tribunal. Any person aggrieved by the decision of the Appellate Tribunal may

[1] SLP (CRIMINAL) No.4634 of 2014 at Para-177

prefer an appeal to the High Court under Section 42 of the PMLA Act. Recently High Court of Delhi in the case of ***M/s. Krrish Realtech Pvt. Ltd. vrs. Union of India***[2] held that, as an alternative and efficacious statutory remedy is available against the confirmation of Attachment order, Writ Petition is not maintainable.

25. Having submitted above, Mr. Nayak fairly submits,on instructions, fairly conceded that the second Provisional Attachment Order is not tenable in law and expressed no objection if the same is quashed.

III. ORDERS AND REASONING:

26. The present Criminal Miscellaneous Case has been filed under Section 482 of the Code of Criminal Procedure, 1973 / Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, invoking the inherent jurisdiction of this Court, seeking quashing of Provisional Attachment Order No. 05/2025 dated 23.03.2025 issued under Section 5(1) of the Prevention of Money-Laundering Act, 2002 (hereinafter referred to as "the PMLA").

27. It is not in dispute that pursuant to registration of ECIR No. ECIR/BBSZO/20/2020, the Enforcement Directorate conducted investigation and, upon conclusion thereof, provisionally attached three bank accounts of the Petitioner to the extent of Rs. 25,08,935/- vide Provisional Attachment Order No. 06/2024 dated 21.08.2024.

28. The said attachment was carried before the learned Adjudicating Authority and stood confirmed under Section 8(3) of the PMLA by

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[2] (W.P.(C) of 895 of 2025) decided on 03.11.2025

order dated 30.12.2024, against which the Petitioner has already preferred a statutory appeal before the Appellate Tribunal, which is pending adjudication.

29. During the pendency of the said appeal, the Enforcement Directorate proceeded to issue the impugned second Provisional Attachment Order No. 05/2025 dated 23.03.2025, attaching immovable properties of the Petitioner, his wife and brother, alleging generation of additional proceeds of crime on the basis of the same predicate offences.

30. As per the contention of the Learned Senior Counsel for the Petitioner contended that the second attachment is wholly without jurisdiction, arbitrary, and constitutes a colourable exercise of power, there being no fresh scheduled offence, no new ECIR, and no independent incriminating material to justify a second attachment during pendency of statutory proceedings arising from the first attachment.

31. However, Learned counsel for the Enforcement Directorate, on instructions, fairly conceded that the second Provisional Attachment Order is not tenable in law and expressed no objection if the same is quashed.

32. The statutory scheme under the PMLA makes it abundantly clear that provisional attachment under Section 5(1) is not an unfettered or recurring power. It is an extraordinary measure intended to preserve alleged proceeds of crime pending adjudication under Section 8.

33. Once a provisional attachment is made, carried to the Adjudicating Authority, and confirmed under Section 8(3), the Act provides a complete appellate hierarchy under Sections 26 and 42. During such pendency, the Enforcement Directorate cannot, on the same predicate offences and same substratum of facts, resort to successive provisional attachments merely because a different officer is in charge.

34. The second attachment in the present case is not founded on any fresh scheduled offence, nor on any subsequent criminal activity, nor on discovery of proceeds of crime which were unavailable or unknown at the time of the first attachment. On the contrary, it arises out of the same investigation and same alleged activity, which had already culminated in an earlier attachment and confirmation.

35. Such repetitive invocation of Section 5(1) amounts to an abuse of statutory power, defeats the finality embedded in the adjudicatory mechanism of the Act, and renders the safeguards under Sections 8, 26 and 42 illusory.

36. This Court is also constrained to observe that the fair concession made by learned counsel for the Enforcement Directorate that the second attachment is unsustainable hence reinforces the conclusion that the impugned action cannot be defended on legal grounds.

37. While it is true that a provisional attachment is subject to confirmation and ordinarily courts are slow to interfere at an interim stage, where the attachment itself is without jurisdiction, continuation of such proceedings would amount to permitting a manifest illegality to persist.

38. In view of the aforesaid discussion, this Court holds that Provisional Attachment Order No. 05/2025 dated 23.03.2025 is without authority of law, suffers from jurisdictional infirmity, and constitutes a colourable exercise of power. Accordingly, Provisional Attachment Order No. 05/2025 dated 23.03.2025/Annexure-2 is quashed.

39. The Criminal Miscellaneous Case is allowed in the above terms. No order as to costs.

40. Interim order, if any, passed earlier stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge