



## The independence of PMLA proceedings: Evaluating recent judicial trends in provisional attachments

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### Abstract

This research article evaluates the 'functional independence' of the Prevention of Money Laundering Act, 2002, focusing on the provisional attachment of assets under Section 5. Grounded in the Supreme Court's landmark Vijay Madanlal Choudhary ruling, the study characterizes the PMLA as a sui generis framework where attachment is a preventive measure distinct from punitive criminal liability. The analysis highlights evolving judicial trends in 2024–2025, specifically the emergence of the 'Doctrine of Substitution,' exemplified by the M3M India case. This doctrine permits the substitution of attached assets with unencumbered property of equivalent value to prevent the 'civil death' of commercial entities during protracted trials. Furthermore, the article examines the judiciary's insistence on procedural rigor, emphasizing strict adherence to the statutory 'reason to believe' standard and the mandatory timelines for retaining assets. It also addresses the critical interplay between PMLA enforcement and the protection of bona fide third-party rights under the Insolvency and Bankruptcy Code. The article concludes that recent jurisprudence establishes a 'Middle Path,' upholding the Enforcement Directorate's wide preventive powers while enforcing rigorous checks to protect economic stability and constitutional property rights under Article 300A.

**Keywords:** Prevention of money laundering act, provisional attachment, doctrine of substitution, proceeds of crime, vijay madanlal choudhary

### Introduction

The Prevention of Money Laundering Act, 2002 (hereinafter referred as PMLA) represents a paradigm shift in Indian criminal jurisprudence, emerging not merely as a penal statute but as a comprehensive, sui generis legislation designed to safeguard the nation's financial integrity. Enacted in response to the Political Declaration adopted by the United Nations General Assembly in 1998, the PMLA reflects India's commitment to the global war against financial crimes, specifically the laundering of proceeds generated from serious criminal activities. Unlike traditional criminal laws that focus solely on punitive retribution for committed offenses, the PMLA amalgamates regulatory, preventive, and penal mechanisms to trace, attach, and confiscate assets derived from criminal activity. This legislative architecture acknowledges that money laundering poses a serious threat not only to financial systems but also to the sovereignty and integrity of the nation, necessitating a specialized legal framework that operates beyond the conventional boundaries of the Code of Criminal Procedure.

### The Doctrinal Foundations and Functional Independence of The Pmla

Central to the efficacy of this framework is the concept of the 'functional independence' of PMLA proceedings. The Act defines the offence of money laundering under Section 3 as an independent criminal act involving any process or activity connected with the 'proceeds of crime,' including its concealment, possession, acquisition, or use. While the generation of proceeds of crime relies on the commission of a 'scheduled offence' (predicate offence), the subsequent act of laundering these proceeds constitutes a distinct and standalone liability. This doctrinal separation is a jurisdictional necessity; it ensures that the investigation into the laundering of illicit wealth is not inextricably tethered to the procedural fate of the predicate offence, particularly

regarding the attachment of assets. The Supreme Court has clarified that the offence of money laundering is not dependent on the date of the scheduled offence but rather on the date the person indulges in the process or activity connected with the proceeds of crime. Consequently, the PMLA creates a parallel jurisdiction where the Directorate of Enforcement (hereinafter referred as ED) investigates the financial trail independent of the police investigation into the underlying crime.

A critical manifestation of this functional independence is enshrined in Section 5 of the Act, which empowers the Director or an officer not below the rank of Deputy Director to provisionally attach property involved in money laundering. The legislative intent behind Section 5 is grounded in urgency and prevention; it is designed to ensure that 'proceeds of crime' are not concealed, transferred, or dealt with in a manner that would frustrate proceedings relating to their confiscation. This power is characterized as an emergency measure. The 2015 amendment to the PMLA significantly strengthened this independence by substituting the requirement for a charge sheet with a broader 'reason to believe' standard, thereby allowing for immediate provisional attachment even before a report under Section 173 of the Code of Criminal Procedure, 1973 (hereinafter referred as CrPC) (corresponding Section 193 of the Bharatiya Nagarik Suraksha Sanhita, 2023), is filed, provided the officer records in writing that non-attachment would likely frustrate the proceedings. This underscores the legislative resolve to secure tainted assets immediately, preventing their dissipation while the often-lengthy criminal trials proceed.

The central thesis of this research posits that the power to 'freeze' or provisionally attach assets under Section 5 is fundamentally a preventive, not a punitive, measure. The primary objective is to deprive offenders of the enjoyment of illicit gains, thereby neutralizing the economic incentive

for crime. By attaching property, the state essentially preserves the status quo, ensuring that the asset remains available for eventual confiscation should the guilt of the accused be established. This distinction is vital: provisional attachment does not transfer the title of the property to the government but merely prohibits its transfer or conversion. As noted by the Supreme Court, the provision strikes a balancing arrangement to secure the interests of the person while ensuring the proceeds of crime remain available to be dealt with under the Act. Therefore, the attachment is not a determination of guilt but a statutory intervention to protect the economic ecosystem from the infiltration of tainted capital.

However, this preventive power intersects significantly with individual rights, specifically the constitutional right to property under Article 300A. While no person shall be deprived of property save by authority of law, the PMLA navigates this tension by incorporating specific safeguards. Section 5(4) explicitly clarifies that nothing in the section shall prevent the person interested in the enjoyment of the immovable property attached from such enjoyment during the period of provisional attachment. This provision serves as a critical counterweight, ensuring that the preventive measures do not devolve into arbitrary dispossession prior to a final adjudication. Furthermore, the judiciary acts as a corrective rather than an oppositional force in this scheme. The attachment order is provisional and has a limited lifespan of 180 days, during which it must be confirmed by an independent Adjudicating Authority. This Adjudicating Authority applies a judicial mind to determine whether a prima facie case exists that the property is involved in money laundering. Thus, the judiciary ensures that the 'reason to believe' exercised by the executive is objective, evidence-based, and not merely based on whims or suspicion. In doing so, the legal framework upholds the delicate balance between the state's paramount interest in confiscating the proceeds of crime and the individual's protection against arbitrary state action.

### **The Statutory Mechanism of Section 5**

The statutory architecture of provisional attachment under Section 5 of the PMLA, establishes a rigorous procedural framework designed to balance the urgency of securing tainted assets with the protection of individual property rights. The power to provisionally attach property is conferred upon the Director or any other officer not below the rank of Deputy Director, who acts as a statutory authority distinct from the police machinery involved in the predicate offence. This power is not unbridled; it is circumscribed by the mandatory requirement that the authorised officer must have a 'reason to believe,' founded on material in his possession, that a person is in possession of any proceeds of crime and that such proceeds are likely to be concealed, transferred, or dealt with in a manner that would frustrate proceedings relating to confiscation. The legislative insistence on recording these reasons in writing serves as a critical check against the arbitrary exercise of executive power, ensuring that the attachment is not based on mere suspicion, whims, or caprice but on objective material that justifies the formation of such a belief. The Supreme Court has clarified that while the sufficiency of the reasons for belief may not be justiciable, the existence of such belief and the recording thereof are jurisdictional conditions precedent that must be strictly satisfied. This

written record creates an accountability trail, preventing ex post facto justifications for state action that deprives an individual of the enjoyment of their property.

A nuanced doctrinal analysis of Section 5(1) reveals a complex interplay between its first and second provisos, which govern the timing and prerequisites of provisional attachment. The first proviso establishes the general rule: no order of attachment shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under 173 of the CrPC (corresponding Section 193 of the Bharatiya Nagarik Suraksha Sanhita, 2023), or a complaint has been filed before a Magistrate or court for taking cognizance of the scheduled offence. This provision seemingly tethers the PMLA proceedings to the progress of the investigation into the predicate offence, ensuring that the money laundering investigation does not precede the crystallization of a criminal charge in the underlying crime. However, the legislature introduced the second proviso to address 'emergent' situations where adherence to the first proviso might defeat the very object of the Act. The second proviso acts as a non-obstante clause, empowering the authorised officer to immediately attach property if they have reason to believe that the non-attachment would frustrate proceedings under the Act.

This 'emergency attachment' power is a significant departure from traditional criminal procedure, allowing the ED to freeze assets even before a formal chargesheet or police report is filed in the scheduled offence. The Supreme Court, in *Vijay Madanlal Choudhary*, upheld this mechanism, reasoning that the machinery provisions cannot be construed in a manner that would eventually frustrate the proceedings; thus, if the property involved in money laundering is likely to disappear, the officer is justified in acting with speed to secure it, even in the absence of a registered criminal case for the scheduled offence. This interpretation reinforces the functional independence of the PMLA, clarifying that while the existence of a scheduled offence is a foundational fact for the definition of proceeds of crime, the procedural action of attachment need not wait for the procedural maturity of the investigation into that scheduled offence. Consequently, the second proviso empowers the ED to act proactively to prevent the layering or integration of illicit assets, provided the officer records a distinct satisfaction regarding the urgency of the situation.

The validity of a provisional attachment order (hereinafter referred as PAO) is legally ephemeral, with a statutory lifespan limited to one hundred and eighty days from the date of the order. This limitation period underscores the 'provisional' nature of the executive's power, serving as a safeguard against indefinite executive freeze on property without judicial oversight. During this period, the attachment must be adjudicated upon; if the Adjudicating Authority does not confirm the attachment within this timeframe, the order ceases to have effect. Furthermore, the 2018 amendment introduced a third proviso to Section 5(1), clarifying that any period during which the proceedings are stayed by the High Court shall be excluded from the computation of the 180 days, thereby ensuring that judicial delays do not inadvertently extinguish the validity of the attachment order. Crucially, immediately after passing the provisional attachment order, the officer must forward a copy of the order, along with the material in his possession, to the Adjudicating Authority in a sealed envelope. This requirement of a 'sealed envelope' is a procedural guarantee

of fairness and transparency, ensuring that the material forming the basis of the officer's 'reason to believe' is preserved and cannot be tampered with prior to adjudication.

The Adjudicating Authority (hereinafter referred as AA) functions as the requisite quasi-judicial check within this statutory scheme, tasked with reviewing the executive's action within a strict timeline. The authorised officer is statutorily obligated to file a complaint stating the facts of the attachment before the AA within thirty days of the order. Upon receipt of this complaint, the AA issues a show cause notice to the person concerned, calling upon them to indicate the sources of their income, earnings, or assets. This adjudicatory process affords the aggrieved person an opportunity to be heard and to produce evidence to rebut the allegations that the property constitutes proceeds of crime. The AA applies a judicial mind to determine whether a prima facie case exists that the property is involved in money laundering. If the AA confirms the attachment under Section 8(3), the order continues during the investigation for a period not exceeding 365 days or the pendency of the proceedings relating to the offence. Thus, the AA stands as a bulwark between the executive's power to freeze assets and the final confiscation, ensuring that the deprivation of property rights even if temporary is subjected to independent scrutiny and adheres to the principles of natural justice. This multi-layered statutory mechanism, moving from the executive formation of belief to quasi-judicial confirmation, establishes the legal validity of the deprivation of property rights under the PMLA, distinguishing it from arbitrary state acquisition.

### **The Vijay Madanlal Choudhary Benchmark**

The jurisprudential landscape of the PMLA, underwent a seismic shift with the Supreme Court's 2022 judgment in *Vijay Madanlal Choudhary v. Union of India*. This ruling serves as the definitive foundation for the 'functional independence' of the Act, establishing it not merely as a penal statute but as a sui generis legislation designed to combat the international menace of money laundering. The Court's analysis firmly positions the PMLA as a complete code with its own machinery for prevention, attachment, confiscation, and prosecution, thereby distinguishing it from the general criminal procedure governed by the Code of Criminal Procedure.

Central to this ruling was the Court's upholding of the constitutionality of Section 5, which grants the Enforcement Directorate the power of provisional attachment. The Court reasoned that Section 5 provides a 'balancing arrangement' that secures the interests of the individual while ensuring that the 'proceeds of crime' remain available to be dealt with under the Act. The judgment validated the 2015 amendment to the second proviso of Section 5(1), which allows for immediate provisional attachment even in the absence of a report (charge sheet) under Section 173 of the CrPC for the scheduled offence. The Court recognized that requiring a charge sheet in the predicate offence before attachment could frustrate the very object of the Act, as it would allow time for the dissipation of tainted assets. By upholding this 'emergency attachment' power, the Court affirmed the ED's functional independence to act swiftly to freeze assets based on a recorded 'reason to believe,' independent of the procedural maturity of the investigation into the underlying crime.

A critical component of this functional independence is the Court's expansive interpretation of 'proceeds of crime' under Section 2(1)(u) and the offence of money laundering under Section 3. The Court clarified that the offence of money laundering is an 'independent offence' concerning the process or activity connected with the proceeds of crime. This offence is not limited to the final act of integrating tainted money into the formal economy but captures every process and activity, direct or indirect, in dealing with such proceeds, including concealment, possession, acquisition, or use. The Court upheld the explanation inserted in 2019, which clarified that the process or activity connected with proceeds of crime is a continuing activity. Consequently, a person can be prosecuted for money laundering for continuing to possess or conceal proceeds of crime, even if the criminal activity generating them occurred prior to the scheduling of the offence, provided the laundering activity continues post-scheduling. This interpretation underscores that the date of the laundering activity, rather than the date of the scheduled offence, is the pivot for PMLA liability.

However, the Court introduced a vital nuance regarding the relationship between the PMLA proceedings and the predicate offence. While establishing the ED's independent power to investigate and provisionally attach assets, the ruling reinforced a foundational dependence on the scheduled offence for the finality of proceedings. The Court held that 'proceeds of crime' must be derived or obtained as a result of criminal activity relating to a scheduled offence. Therefore, if the person named in the criminal activity relating to the scheduled offence is finally absolved by a court of competent jurisdiction whether through acquittal, discharge, or quashing there can be no 'proceeds of crime'. In such a scenario, the PMLA proceedings cannot survive, as the very substratum of the money laundering charge vanishes. Thus, while the investigation and attachment phases possess functional independence to secure assets proactively, the final confiscation and conviction remain tethered to the existence of the scheduled offence.

The judgment further distinguished the PMLA from the CrPC by characterizing the ED authorities not as police officers but as administrative authorities entrusted with the task of preventing money laundering. The Court emphasized that the PMLA is a special legislation with a distinct purpose prevention and regulation unlike the general penal code. Consequently, the Enforcement Case Information Report (hereinafter referred as ECIR) was held not to be equivalent to a First Information Report (hereinafter referred as FIR) under the CrPC. The ECIR is an internal administrative document, and the Court ruled that its non-supply to the accused does not violate constitutional rights, provided the grounds of arrest are communicated at the time of arrest. This distinction reinforces the view that the PMLA operates as a distinct regulatory regime where the procedural safeguards are embedded within the special statute itself such as the requirement for high-ranking officers to record reasons in writing for arrest or attachment rather than relying on the general provisions of the CrPC.

In sum, *Vijay Madanlal Choudhary* solidifies the PMLA's status as a specialized, independent framework equipped with potent mechanisms to freeze and attach assets derived from crime. By validating the 'reason to believe' standard for attachment and severing the immediate procedural link to the predicate offence's investigation stage, the Supreme Court has empowered the state to act preventively. Yet, by

tethering the ultimate fate of the attached assets to the survival of the scheduled offence, the Court has maintained a critical doctrinal check, ensuring that the derivative offence of money laundering does not exist in a vacuum devoid of a primary criminal source.

### **2024–2025 Trends: The Doctrine of Substitution and Commercial Continuity**

The jurisprudential trajectory of the Prevention of Money Laundering Act, 2002, has historically emphasized the strict deprivation of property to prevent the enjoyment of illicit gains. However, judicial trends emerging in 2024 and 2025 indicate a significant doctrinal maturation, moving towards a paradigm that balances rigorous enforcement with economic pragmatism. This evolution is most visibly encapsulated in the ‘Doctrine of Substitution,’ a mechanism allowing accused entities to replace provisionally attached assets with clean assets of equivalent or higher value. This shift addresses the critical challenge of preventing the ‘civil death’ of ongoing commercial enterprises during protracted criminal trials while ensuring the state’s security interest in the proceeds of crime remains uncompromised.

The watershed moment for this approach is found in the Supreme Court’s 2025 order regarding the M3M Group. In this matter, the Enforcement Directorate had provisionally attached high-value real estate assets belonging to the petitioners, M3M India Pvt. Ltd. and M3M India Infrastructure Pvt. Ltd., in connection with a money laundering probe. The attachment of such operational assets, specifically unsold commercial units in the ‘M3M Broadway’ project in Gurugram, threatened to paralyze the business, adversely affecting third-party stakeholders such as homebuyers, investors, and financial institutions. The Supreme Court, exercising a pragmatic lens, permitted the substitution of the attached property with other unencumbered assets, marking a departure from the blanket punitive application of Section 5.

The doctrinal underpinning of this substitution lies in the definition of ‘proceeds of crime’ itself, which encompasses not just the specific property derived from criminal activity but also the ‘value of any such property’. In the M3M case, the petitioners proposed substituting the attached assets with alternate commercial units. Crucially, the ED conducted an independent valuation through M/s CSV Techno Solutions LLP, which assessed the fair market value of the proposed substitute assets at INR 317 crores an amount exceeding the value of the originally attached property, which was approximately INR 300 crores. This valuation ensured that the government’s interest in securing the eventual confiscation of proceeds was not merely protected but mathematically bolstered.

The Supreme Court’s acceptance of this substitution was not unconditional; rather, it was predicated on a rigorous framework of nine safeguards proposed by the ED, establishing a high threshold for ‘equivalent-value substitution.’ These conditions included the submission of a ‘No Encumbrance Certificate’ to establish a clear and marketable title, the furnishing of an indemnity bond to cover potential losses, and the deposit of original title documents with the ED. Furthermore, the Court mandated a notarized undertaking that the substituted property would not be alienated during the pendency of proceedings. Perhaps most significantly, regarding commercial continuity, the order explicitly required the petitioner to

safeguard the rights of third-party retail buyers in the project, ensuring that the enforcement proceedings did not obstruct legitimate business transactions or project progress. This reflects a judicial recognition that the PMLA’s objective is to confiscate illicit wealth, not to cause collateral damage to the broader economy or innocent stakeholders.

While the Supreme Court clarified that this order was passed in the specific facts and circumstances of the case and should not be treated as a binding precedent, legal commentators argue it creates a ‘functional precedent’ or persuasive authority for future disputes. It acknowledges a nuanced legal gap where the PMLA neither expressly prohibits nor provides for substitution, allowing the judiciary to fashion remedies that prevent economic paralysis. By permitting substitution, the Court prevented the asset from becoming a ‘dead’ inventory that loses value over time, instead securing an active, unencumbered asset that can be liquidated if confiscation is eventually ordered.

This trend of allowing value-based substitution was further reinforced by the Delhi High Court in *Revati Cements (P) Ltd. v. Union of India* (2024). In this case, the petitioner sought to release attached land worth Rs 4.68 crores by offering a bank guarantee of an equivalent sum. The High Court, distinguishing between ‘proceeds of crime’ (specific tainted property) and ‘amount equivalent to proceeds of crime,’ allowed the substitution. The Court relied on previous judgments, including *Esskay Properties*, to hold that securing the value is sufficient to satisfy the objectives of the PMLA, provided the substitute asset (in this case, a bank guarantee) is readily realizable. This aligns with international frameworks like the United Nations Convention against Corruption (hereinafter referred as UNCAC) and FATF recommendations, which advocate for asset recovery mechanisms that include flexibility through value-equivalent confiscation.

However, the judiciary remains cautious to ensure that this doctrine does not become a loophole for dissipating tainted assets. The substitution is permissible only when the asset offered is ‘clean’ and not derived from proceeds of crime. In the M3M case, a specific condition required the complete and transparent disclosure of the source of funds used to acquire the substituted assets. This ensures that the accused cannot launder tainted money by swapping it for clean assets during the trial. The burden remains on the accused to demonstrate bona fide intent and provide security that is unencumbered and readily available for confiscation.

In conclusion, the judicial approach in 2024–2025 reflects a maturing PMLA jurisprudence that seeks to avoid the ‘civil death’ of commercial entities. By permitting the substitution of attached properties with assets of equivalent or higher value, the courts are harmonizing the state’s power of confiscation with the fundamental right to carry on trade and commerce. This approach prevents the arbitrary freezing of economic tools such as real estate projects or factory land that support employment and supply chains, while rigorously maintaining the ED’s lien over the value of the alleged proceeds of crime. Although the Supreme Court has framed the M3M order as non-precedential, it undoubtedly signals a shift toward ‘economic prudence’ in the administration of the PMLA, ensuring that the process of attachment does not inflict disproportionate harm before a final conviction is secured.

### **Procedural Rigor and Timelines: The Judicial Check Against Perpetual Attachment**

The evolution of the Prevention of Money Laundering Act, 2002 into a self-contained code with potent powers of search, seizure, and attachment has necessitated a concomitant judicial insistence on procedural rigor. While the 'functional independence' of the PMLA allows the Enforcement Directorate to act distinct from the timeline of the predicate offence's investigation, recent judicial trends in 2024 and 2025 demonstrate a firm resolve to prevent this independence from devolving into procedural arbitrariness. The judiciary, particularly through the interpretation of Section 8(3) and the statutory timelines for retention of property, has framed strict adherence to procedure not as an impediment to enforcement, but as a non-negotiable safeguard against the 'civil death' of entities through perpetual provisional attachments. This scrutiny ensures that the deprivation of property, constitutionally protected under Article 300A, occurs strictly within the 'authority of law' and not through executive inertia or procedural lapses.

The focal point of this jurisprudential correction is the interpretation of Section 8(3)(a) of the PMLA, which mandates that the confirmation of an attachment order continues during the investigation for a period 'not exceeding three hundred and sixty-five days. In the landmark 2022 ruling of Vijay Madanlal Choudhary, the Supreme Court upheld the validity of this provision, clarifying that the legislative intent was to ensure that the investigation does not drag on indefinitely while assets remain frozen. Building on this foundation, the Delhi High Court's 2025 ruling in Anirudh Pratap Agarwal v. Enforcement Directorate establishes a critical benchmark for procedural compliance. The Court held that the statutory scheme of the PMLA creates a graded mechanism for retention: Section 20 allows retention for up to 180 days, after which Section 8(3) governs the confirmation and continuation of such attachment. The Court clarified that the power to retain seized property is substantive and mandatory; failure to strictly adhere to the procedural requirements such as recording independent reasons for retention or forwarding the order to the Adjudicating Authority renders the continued retention of property void ab initio. This ruling underscores that the ED cannot bypass the specific statutory gateways of Section 20 to directly invoke the confirmation powers of the Adjudicating Authority under Section 8, thereby reinforcing that procedural shortcuts that extend the life of an attachment beyond statutory limits are impermissible.

This judicial insistence on timelines is further elucidated in the Supreme Court's 2025 decision in Union of India v. J.P. Singh, which clarified the conditions under which an attachment order continues beyond the initial period. The Court held that for the extension of attachment under Section 8(3)(a), it is sufficient that a complaint alleging the commission of an offence under Section 3 of the PMLA is pending before the Special Court. Crucially, the validity of the retention order depends on the pendency of the proceedings related to the offence itself, not necessarily whether the specific individual affected by the attachment is named as an accused in that complaint. While this interpretation appears to favor the ED by broadening the scope of 'pendency,' it simultaneously imposes a burden on the agency to ensure that a prosecution complaint is actually filed. If no prosecution complaint is filed within the 365-day

window provided during the investigation, the attachment cannot ostensibly continue, preventing the 'perpetual' freezing of assets in cases where the investigation hits a dead end. The judiciary is thus harmonizing the ED's power to secure assets with the citizen's right to be free from indefinite executive interference, ensuring that provisional attachment remains a temporary measure pending trial, rather than a permanent expropriation without conviction.

Parallel to the enforcement of timelines is the robust judicial protection of bona fide third-party interests and secured creditors, particularly where the PMLA intersects with the Insolvency and Bankruptcy Code (hereinafter referred as IBC). In Shiv Charan v. Enforcement Directorate 2024, the Bombay High Court addressed the conflict between the PMLA's attachment powers and the 'clean slate' doctrine under Section 32-A of the IBC. The Court ruled that once a resolution plan is approved under Section 31 of the IBC, the immunity conferred by Section 32-A triggers, protecting the corporate debtor and its assets from any attachment or restraint related to offences committed by the erstwhile management prior to the corporate insolvency resolution process (hereinafter referred as CIRP). This judgment is pivotal as it establishes that the PMLA's objective of confiscating proceeds of crime cannot override the economic objective of reviving distressed assets through the IBC. The Court held that the attachment by the ED must abate upon the approval of a resolution plan involving a bona fide third-party purchaser who was not involved in the money laundering offence.

This 'pro-process' approach protects the economic ecosystem by ensuring that secured creditors and new investors are not penalized for the crimes of previous promoters. The High Court emphasized that the National Company Law Tribunal (hereinafter referred as NCLT) possesses the jurisdiction to direct the release of attached properties to ensure the effective implementation of a resolution plan. By enforcing the non-obstante clause of Section 32-A of the IBC against the PMLA, the judiciary has clarified that the 'independence' of PMLA proceedings does not imply supremacy over all other economic legislations, especially when third-party rights are at stake. This aligns with the broader legislative intent that the pursuit of 'proceeds of crime' should not result in the destruction of the underlying asset's economic value or the rights of legitimate stakeholders.

Furthermore, recent jurisprudence regarding arrest and remand, as seen in Ram Kishor Arora and subsequent interpretations, reinforces the procedural rigor required under Section 19 of the PMLA. Courts are increasingly scrutinizing whether the 'reasons to believe' regarding guilt are recorded in writing and communicated to the arrestee, treating these not as mere formalities but as jurisdictional conditions precedent. The High Courts have held that non-compliance with the mandate of forwarding the arrest order and material to the Adjudicating Authority 'immediately' (interpreted as contemporaneously) vitiates the arrest and subsequent remand. This signifies a judicial refusal to accept the ED's internal administrative delays or procedural lapses, framing strict compliance as the necessary trade-off for the draconian powers vested in the agency.

In conclusion, the judicial trends of 2024-2025 reflect a mature phase of PMLA jurisprudence where the focus has shifted from questioning the constitutionality of the Act's stringent provisions to enforcing the procedural safeguards

embedded within them. By strictly enforcing the 365-day timeline for investigation-based attachment in Anirudh Pratap Agarwal, protecting bona fide resolution applicants in Shiv Charan, and mandating rigorous adherence to arrest procedures, the courts are ensuring that the PMLA functions as a tool for justice rather than an instrument of oppression. These checks do not stifle the ED's mandate but ensure that the 'functional independence' of the PMLA operates within the bounds of the Rule of Law, preventing provisional measures from becoming indefinite punishments for the accused and innocent third parties alike.

### Conclusion

The trajectory of the Prevention of Money Laundering Act, 2002, from its nascent stages as a response to international conventions against drug trafficking to its current status as a robust, independent pillar of Indian criminal jurisprudence, reflects a profound evolution in the state's approach to economic security. What began as a legislative mechanism to fulfil India's obligations under the Vienna and Palermo Conventions has metamorphosed into a sui generis legislation that operates with a distinct functional independence from the general penal code. The jurisprudential journey, culminating in the landmark Vijay Madanlal Choudhary verdict and refined by judicial trends in 2024–2025, establishes that the PMLA is not merely a statute for prosecution but a comprehensive regulatory framework designed to prevent the integration of tainted assets into the formal economy. The Supreme Court has effectively carved out a 'Middle Path,' upholding the Enforcement Directorate's wide preventive powers including the 'twin conditions' for bail and the reverse burden of proof while simultaneously demanding rigorous adherence to procedural safeguards, particularly the recording of 'Reason to Believe' and strict statutory timelines.

The doctrinal core of this 'Middle Path' lies in the delicate equilibrium between the state's compelling interest in confiscating proceeds of crime and the constitutional protection of individual liberty and property. The Supreme Court in Vijay Madanlal Choudhary validated the stringency of Section 45 and Section 24, reasoning that money laundering poses a serious threat to the financial integrity and sovereignty of the nation, thereby justifying a departure from the ordinary presumption of innocence found in general criminal law. However, this wide latitude granted to the executive is circumscribed by the mandatory requirement that the authorized officer must record reasons in writing before effecting arrest or attachment. As reinforced by the Delhi High Court in Sanjay Aggarwal case of 2025, this 'reason to believe' must be founded on tangible material and cannot rest on mere suspicion, serving as a jurisdictional check against arbitrary state action. Consequently, while the ED operates as an independent agency untethered by the procedural fate of the predicate offence in instances of provisional attachment, it remains bound by the internal checks and balances codified within the PMLA itself.

A significant maturation in PMLA jurisprudence is observable in the judicial trends of 2025, which have begun to infuse concepts of economic equity and proportionality into the enforcement regime. The Supreme Court's ruling in the M3M case exemplifies this shift towards 'economic prudence.' By permitting the substitution of provisionally

attached assets with unencumbered property of equivalent or higher value, the judiciary acknowledged that the objective of the PMLA is to secure the value of the proceeds of crime, not to paralyze ongoing commercial enterprises or prejudice innocent third-party stakeholders. This 'Doctrine of Substitution' prevents the 'civil death' of businesses during protracted trials, ensuring that the enforcement mechanism does not inflict collateral damage on the broader economy while preserving the state's lien over the value of the alleged illicit gains. This marks a transition from a purely punitive application of the law to one that accommodates commercial continuity, treating the PMLA as a tool for financial justice rather than mere expropriation.

Furthermore, the judiciary's insistence on procedural rigor has transformed the statutory timelines from directory guidelines into mandatory safeguards. The ruling in Anirudh Pratap Agarwal case underscores that the powers of search, seizure, and retention under Sections 17 and 20 are not unbridled but are subject to strict adherence to the 'manner' prescribed by the statute. The courts have clarified that the failure to record independent reasons for retention or to forward the order to the Adjudicating Authority within the statutory window renders the continued retention of property void ab initio. This reinforces the principle that the deprivation of property under Article 300A, even in the context of money laundering, must occur strictly by the authority of law. The judiciary has thus positioned itself not as an adversary to the ED, but as a guardian of the 'due process' embedded within the special statute, ensuring that the 'functional independence' of the PMLA does not devolve into procedural arbitrariness.

In conclusion, the PMLA has matured into a precise instrument of financial enforcement. The synthesis of recent judicial pronouncements establishes that while the ED possesses potent powers to pierce the corporate veil and trace the complex layering of illicit funds, these powers are contingent upon a high standard of accountability. The law now demands that the state demonstrate a transparent 'reason to believe' at the threshold of intervention and respect the economic rights of entities through mechanisms like asset substitution. As India continues to integrate with the global financial system, this refined PMLA jurisprudence ensures that the war against financial crime is waged with a sophisticated legal armoury that protects the nation's economic sovereignty without sacrificing the rule of law or the viability of legitimate commerce. The 'Middle Path' thus secures the nation's financial borders while ensuring that the sword of the PMLA is wielded with both precision and equity.

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