



Good morning, Dear Friend,

We are pleased to announce the publication of our latest research book:

25 FAQs on NCB → ED nexus for investigations and adjudications across the India

This book is part of our ongoing **Darshan Mala Series (DMS)**—a special weekly research initiative covering various aspects of Indian laws, enforcement agencies, regulatory authorities, and important legal and regulatory developments.

The series covers important subjects relating to:

Indian Acts — including the Prevention of Corruption Act, PMLA, FEMA, COFEPOSA, and other important statutes.

Enforcement Agencies — including the ED, DRI, CBI, NIA, SFIO, DGGI, Income Tax Investigation, and other agencies.

Regulatory Authorities — including IFSCA, RBI, SEBI, FIU-IND, NCLT, CVC, IB, R&AW, EOW, and other authorities.

Over the years, we have published more than **225 research papers and books**, comprising over **30,000 pages of legal and regulatory research**, all made available **free of charge for public reference**.

Our lifetime objective is to publish **1,000 research papers and books**, comprising more than **100,000 pages of legal and regulatory research**, and to continue making this research freely available for the benefit of **researchers, professionals, students, and the general public**.

We warmly invite you to **explore our publications, review our research, and share your valuable comments, observations, and suggestions**.

With warm wishes

CA Satish Agarwal

9/14, (First Floor),

East Patel Nagar,

New Delhi - 110008

Phone: Office **+911141412139**

Mobile **+919811081957**

Official Mail address: satishagarwal307@yahoo.com

Website: www.femainindia.com



DARSHAN MALA SERIES (DMS)

25 Frequently Asked Questions (FAQs) on the Narcotics Control Bureau (NCB) → Enforcement Directorate (ED) nexus for investigations and adjudications across the India

The Darshan Mala Series (DMS) presents weekly research and updates based on information available in the public domain.

This edition, comprising 25 Frequently Asked Questions (FAQs), examines the Narcotics Control Bureau (NCB) → Enforcement Directorate (ED) nexus for investigations and adjudications across the India, including respective roles, jurisdiction, investigative processes, and areas of interaction between the two agencies.

The Series covers matters reported in the public domain concerning Special Courts, proceedings before such Courts, and proceedings relating to adjudication and other judicial or quasi-judicial processes concerning enforcement, investigation, attachment, prosecution, and related matters.

The Darshan Mala Series has been initiated with inspiration from the vision of the Hon'ble Prime Minister of India to promote greater public awareness and informed discussion on matters relating to governance, accountability, transparency, administration, enforcement, and the functioning of the justice delivery system.

DISCLAIMER

The contents of this Series have been compiled exclusively from information available in the public domain, including official statements, court records, judicial orders, government publications, media reports, and other publicly accessible sources.

The material is intended for research, educational, and public-awareness purposes. Readers are advised to refer to the original statutes, notifications, judicial orders, official records, and other primary sources for authoritative information and to obtain professional advice wherever necessary.

SUBSCRIBE FOR REGULAR UPDATES

You are requested to subscribe to our YouTube channel for quick access to all articles published by us to date on various topics, together with regular updates and new publications forming part of the Darshan Mala Series.

<https://www.youtube.com/@satishagarwal303>

&

https://femainindia.com/resource/Reserach_Paper.aspx

&

https://taxguru.in/author/satishagarwal307_1957



25 FAQs on NCB → ED nexus for investigations and adjudications across the India

INDEX

S.No	Topics	Page No.
1.	What is NCB → ED nexus for investigations and adjudications across the India?	4
2.	What are the NCB's roles and ED's roles?	4 & 5
3.	What is flow chart for NCB → ED nexus?	5
4.	What is the live example for NCB → ED nexus?	6
5.	What are the legal points involved in NCB → ED nexus?	6
6.	What are important points for defence in NCB and ED cases?	6 & 7
7.	What are important 6 check points for NCB → ED nexus?	7
8.	What is best example for NCB → ED nexus?	8
9.	What is chronology test for NCB → ED nexus?	8 & 9
10.	What is important of the sec. 27A of NDPS Act, 1985 for the ED's investigations?	9
● The Supreme Court and High Courts Judgments for the NCB → ED Nexus ●		
11.	What is Supreme Court case of Nirman Builders v. Union of India (2026)?	10
12.	What is Supreme court case Pavana Dibbur v. ED (2023)?	10
13.	What is different Supreme Court cases' analysis for NCB → ED nexus?	11 & 12
14.	What is Supreme Court case of Vijay Madanlal v. Union of India (2022)?	13
15.	Whether the NCB case is "automatically" the PMLA case?	13
16.	What are important legal questions in Vijay Madanlal v. Union of India (2022)?	13 & 14
17.	What is Delhi High Court case of Anshad Badruddin v. ED (2026)?	14

18.	<i>What is Delhi High Court case of Kanchana Rai v. ED (2026)?</i>	<i>14 & 15</i>
19.	<i>What is Delhi High Court case of Bhupesh Arora v. ED (2026)?</i>	<i>15</i>
20.	<i>What is Karnataka High Court case of Prathap N v. ED (2026)?</i>	<i>15</i>
21.	<i>What is Punjab & Haryana Court case of Sukhpal Singh Khaira v. ED (2025)?</i>	<i>15 & 16</i>
22.	<i>What is Allahabad High Court case of Neeharika Singh v. ED (2025)?</i>	<i>16 & 17</i>
23.	<i>What is Madras High Court case of R.K.M Powergen v. ED (2025)?</i>	<i>17</i>
24.	<i>What is Telangana High Court case of Bharti Cement Corporation v. ED (2022)?</i>	<i>17 & 18</i>
25.	<i>What is Madras High Court case of Powergen Pvt. Ltd v. ED (2022)?</i>	<i>18</i>

Author's Profile for 25 FAQs on NCB → ED nexus for investigations and adjudications across India



25 FAQs on NCB → ED nexus for investigations and adjudications across the India

(Source of information's used in preparation of weekly updates are taken from public domain)

1. What is NCB → ED nexus for investigations and adjudications across the India?

- (i) The NCB → ED nexus is primarily the “drug offence → Proceeds of Crime (PoC) → money laundering” connection.
- (ii) The NCB and ED have different statutory mandates, but an NCB narcotics case can provide the predicate or scheduled offence under the NDPS Act, 1985 where the ED's investigation to be started under the PMLA, 2002.

2. What are the NCB's roles and ED's roles?

S.No	Particulars	Narcotics Control Bureau (NCB)	Enforcement Directorate (ED)
(i)	Principal legislation	The Narcotic Drugs and the Psychotropic Substances (NDPS) Act, 1985	(a) The Prevention of Money Laundering Act (PMLA), 2002 (b) Foreign Exchange Management Act, (FEMA) 1999 (c) Fugitive Economic Offenders Act (FEOA), 2018
(ii)	Primary mandate	To co-ordinates and undertakes enforcement against the illicit narcotics trafficking and related offences	(a) To investigates money laundering under the PMLA, 2002 (b) To the investigates foreign-exchange contraventions under the FEMA, 1999
(iii)	Investigation focus	(a) Drug trafficking (b) Illicit manufacture (c) Possession, transportation & financing connected with the narcotics offences	(a) Proceeds of Crime (PoC) under the PMLA, 2002 (b) Money laundering under the PMLA, 2002 (c) Asset tracing under PMLA, 2002 (d) The Foreign-exchange violations under the FEMA, 1999



(iv)	Enforcement powers	(a) To exercises applicable NDPS enforcement powers (b) To search and seizure, arrest and prosecution	(a) To exercises PMLA powers (b) To search, seizure and arrest (c) To provisional attachment
(v)	Property-related action	Seizure or the forfeiture-related action	Provisional attachment and the confiscation-related proceedings
(vi)	Nature of proceedings	Criminal proceedings for offences under the NDPS Act, 1985	(a) The PMLA criminal proceedings under the PMLA, 2002 (b) The FEMA investigation and adjudication proceedings under the FEMA, 1999

3. What is flow chart for NCB → ED nexus?

NCB drug investigation under the NDPS Act, 1985



Drug trafficking or other NDPS offence under the NDPS Act, 1985



Money generated from the drug activity under the NDPS Act, 1985



Bank accounts, cash, crypto, hawala, properties or businesses under the NDPS Act, 1985



ED examines whether these constitute Proceeds of Crime (PoC) under the PMLA, 2002



ECIR or PMLA investigation under the PMLA, 2002



Search under the PMLA, 2002



Seizure or freezing under the PMLA, 2002



Arrest, where legally warranted under the PMLA, 2002



Provisional attachment under the PMLA, 2002



PMLA prosecution under the PMLA, 2002



4. What is the live example for NCB → ED nexus?

- (i) A recent ED case illustrates this very clearly where the ED stated that its 2025 PMLA investigation arose from an NCB seizure of 82.53 kg cocaine and NCB's subsequent complaint
- (ii) The ED, thereafter investigated the financial network, including mule accounts and crypto wallets, to trace Proceeds of Crime (PoC).

5. What are the legal points involved in NCB → ED nexus?

- (i) The NDPS offence and the PMLA offence are "not the same offence".
- (ii) The NDPS case can constitute the underlying scheduled offence, while ED's case concerns the subsequent handling, concealment, possession, acquisition or use of the Proceeds of Crime (PoC) from the "criminal activity" subject to the requirements of PMLA, 2002.
- (iii) The Supreme Court has emphasised that the existence of Proceeds of Crime (PoC) is essential for offence under the section 3 of PMLA, 2002 and that the Proceeds of Crime (PoC) is required to be derived or obtained from "criminal activity" relating to a PMLA scheduled offence.
- (iv) **Conclusion**
 - The NCB establishes or investigates the "drug-crime side" under the NDPS Act, 1985 and the ED follows "money laundering side" under PMLA, 2002.

6. What are important points for defence in NCB and ED cases?

- (i) The NCB case does "not automatically" mean an ED/PMLA case.
- (ii) The ED still has to establish the statutory ingredients of PMLA, 2002 particularly the existence and linkage of Proceeds of Crime (PoC) and person's involvement in the "criminal activity" contemplated under the section 3 of PMLA, 2002.
- (iii) This becomes particularly important where:
 - (a) The NCB has seized drugs but "no identifiable financial Proceeds of Crime (PoC)" are established



- (b) *The alleged Proceeds of Crime (PoC) belong to someone "other than the NDPS" accused*
- (c) *The property or transactions predate the alleged drug offence*
- (d) *There is "no demonstrated money trail" connecting the property to the scheduled offence*
- (e) *The person is merely a relative, employee, director, professional or business associate "without evidence" of handling Proceeds of Crime (PoC)*
- (f) *The NCB proceedings themselves change materially, such as discharge, quashing or acquittal.*

7. What are important 6 check points for NCB → ED nexus?

S.No	Checkpoint	Question to be answered
(i)	<i>Scheduled offence under the PMLA, 2002</i>	<i>What exact NDPS Act, 1985 provision or offence is NCB relying upon, and is that offence included in the PMLA Schedule under the PMLA, 2002?</i>
(ii)	<i>Criminal activity under the PMLA, 2002</i>	<i>What specific "criminal activity" is alleged against the accused, and what material establishes his/her connection with the "criminal activity"?</i>
(iii)	<i>Proceeds of Crime (PoC) under the PMLA, 2002</i>	<i>What specific ₹ amount, asset or property does ED identify as the Proceeds of Crime (PoC) under the Section 2(1)(u) of PMLA, 2002?</i>
(iv)	<i>Money or property trail under the PMLA, 2002</i>	<i>What evidence establishes a direct nexus or traceable link between the identified property or money and the alleged scheduled NDPS offence?</i>
(v)	<i>Section 3 activity under the PMLA, 2002</i>	<i>What specific laundering conduct is alleged the concealment, possession, acquisition, use, projecting or claiming the proceeds of crime as untainted property under the PMLA, 2002?</i>
(vi)	<i>Fate of NCB case under the NDPS Act, 1985</i>	<i>What is the present status of the NDPS case is pending investigation or trial, discharge, quashing, acquittal or conviction and what is its legal effect on the PMLA proceedings?</i>



8. What is best example for NCB → ED nexus?

● Suppose NCB allege drug trafficking of INR 10 crore ●

NCB: alleges drug trafficking of INR 10 crore



ED: says INR 10 crore is Proceeds of Crime (PoC) or



But ED identifies only INR 1 crore in the accused's bank or property transactions.

- (i) The critical issue is not merely whether the NCB case exists?
- (ii) What evidence establishes that the INR 1 crore constitutes property derived or obtained from the alleged NDPS "criminal activity"?
- (iii) **Important documents:**
 - (a) Bank statements
 - (b) Cash deposits
 - (c) Hawala records
 - (d) Crypto transactions
 - (e) Property purchases
 - (f) Statements
 - (g) Digital evidence
 - (h) The chronology of transactions becomes important.

9. What is chronology test for NCB → ED nexus?

- (i) **Date of alleged NDPS activity under the NDPS Act, 1985**
 - (a) Date of proceeds allegedly generated under the PMLA, 2002
 - (b) Date of money or property acquired under the PMLA, 2002
 - (c) Date of alleged laundering activity under the PMLA, 2002
 - (d) Date of NCB FIR or complaint under the NDPS Act, 1985
 - (e) Date of ED ECIR under the PMLA, 2002
 - (f) Date of PMLA search or attachment under the PMLA, 2002
- (ii) A property or transaction that predates the alleged generation of Proceeds of Crime (PoC) can create an important factual or legal issue about whether it



could actually be Proceeds of Crime (PoC) of that PMLA scheduled offence under the PMLA, 2002.

- (iii) The Supreme Court has itself emphasised the significance of the point at which the PMLA scheduled offence is completed and when the alleged Proceeds of Crime (PoC) under the PMLA, 2002 could have come into existence.

10. What is important of the sec. 27A of NDPS Act, 1985 for the ED's investigations?

- (i) The section 27A is relevant for financing illicit traffic, harbouring offenders and is particularly significant in PMLA analysis because the alleged NDPS activity can involve the generation and movement of financial proceeds under the NDPS Act, 1985.
- (ii) Therefore, the ED's case based on the sections 21, 23, 27A or 29 of the NDPS Act, 1985 is required:
- (a) To analyse over and above simple possession or use case under the PMLA, 2002.

(b) The ED required to identify:

Drug offence under the NDPS Act, 1985



Quantity or transaction under the NDPS Act, 1985



Criminal activity under the PMLA, 2002



Money generated under the PMLA, 2002



Recipient of Proceeds of Crime (PoC) under the PMLA, 2002



Bank, cash or asset under the PMLA, 2002



Money laundering activity under the PMLA, 2002

● **The Supreme Court and High Courts Judgments for the NCB → ED Nexus** ●

11. What is Supreme Court case of Nirman Builders v. Union of India (2026)?

- (i) This Supreme Court case is relevant particularly to the value-of-property limb of the section 2(1)(u) of PMLA, 2002.
- (ii) The Supreme Court has reaffirmed that Proceeds of Crime (PoC) can include property equivalent in value to the property derived from the PMLA scheduled offence subject to the statutory conditions under the PMLA, 2002.
- (iii) **This matter is relevant when the ED says that we cannot trace original drug money or property, therefore another property of equivalent value can be attached.**
- (iv) **That proposition has to be analysed separately from the threshold question:**
 - (a) Was there first a PMLA offence generating identifiable Proceeds of Crime (PoC) under the PMLA, 2002?
 - (b) Therefore, latter remains foundational.

12. What is Supreme court case Pavana Dibbur v. ED (2023)?

- (i) The Supreme Court dealt with the relationship between the PMLA scheduled offence and the PMLA case under the PMLA, 2002.
- (ii) The Supreme Court held that even a person who was “not an accused” in the PMLA scheduled offence can take benefit when “all accused” in the scheduled offence are acquitted, or when the scheduled-offence proceedings under the PMLA, 2002 are discharged or quashed.
- (iii) This principle has subsequently been reiterated by the Supreme Court.
- (iv) Therefore, in an NCB–ED matter, one should closely monitor the fate of the NCB/NDPS proceedings under the NDPS Act, 1985.



13. What is different Supreme Court cases' analysis for NCB → ED nexus?

S.No	Judgment / authority	Refined proposition relevant to NCB → ED/PMLA
(i)	<i>Vijay Madanlal Choudhary</i> v. <i>Union of India, (2022)</i>	● It's foundational PMLA judgment for the section 3 of PMLA, 2002 ● (a) There must be a PMLA scheduled offence under the PMLA, 2002 for generating Proceeds of Crime (PoC). (b) The money laundering activity must be related to the Proceeds of Crime (PoC) under the PMLA, 2002. (c) The existence of Proceeds of Crime (PoC) is therefore central to the section 3 of PMLA, 2002. (d) The Supreme Court also explained that the authorities cannot proceed merely on an assumption that property is Proceeds of Crime (PoC).
(ii)	<i>Pavana Dibbur</i> v. <i>ED (2023)</i>	(a) A person prosecuted under the section 3 need not himself be an accused in the PMLA scheduled offence under the PMLA, 2002. (b) However, the prosecution must still establish the foundational requirements • A PMLA scheduled offence under the PMLA, 2002. • Proceeds of Crime (PoC) derived or obtained from "criminal activity" relating to the PMLA scheduled offence under the PMLA, 2002.
(iii)	<i>V. Senthil Balaji</i> v. <i>ED (2024)</i>	(a) The existence of a PMLA scheduled offence is fundamental to the existence of Proceeds of Crime (PoC) under the PMLA, 2002. (b) The PMLA proceedings and scheduled-offence proceedings have distinct procedural tracks (c) However, the alleged Proceeds of Crime (PoC) must have the legally required nexus with "criminal activity" relating to a PMLA scheduled offence under PMLA, 2002.



		(d) This judgement is to be used carefully for the precise procedural proposition rather than stating that a PMLA trial can never proceed “before” final conviction in the PMLA scheduled offence under the PMLA, 2002.
(iv)	Anoop Bartaria v. ED (2023)	● It’s relevant PMLA judgment for the ingredients of section 3 and the treatment or handling of Proceeds of Crime (PoC) under the PMLA, 2002 ● (a) The Supreme Court held that knowledge of the property dealt with is Proceeds of Crime (PoC) is “not necessarily” a condition precedent for the filing of PMLA complaint. (b) Therefore, the authority should not be cited as establishing a general requirement of prior proof of knowledge at the complaint stage.
(v)	Tarsem Lal v. ED (2024)	(a) Primarily a procedural PMLA authority concerning arrest, custody, cognizance, summons and bail. (b) The Supreme Court held that after the Special Court has taken cognizance of the PMLA complaint, the ED’s power under Section 19 of PMLA, 2002 can “not ordinarily be exercised” against an accused appearing pursuant to the Court’s process without appropriate court permission. (c) It is therefore useful for the procedural stage “after” the ED complaint, rather than as the principal authority on existence of Proceeds of Crime (PoC) under PMLA, 2002.
(vi)	Vijay Madanlal Choudhary v. Union of India, (2022)	● It’s relevant PMLA judgment for the stronger proposition that PMLA actions required legally identifiable Proceeds of Crime (PoC) under PMLA, 2002 ● (a) A property derived or obtained, directly or indirectly, from “criminal activity” relating to a PMLA scheduled offence under the PMLA, 2002. (b) The ED can “not simply assume” that property recovered or identified by it is Proceeds of Crime (PoC) “without” the required statutory nexus.



14. What is Supreme Court case of Vijay Madanlal v. Union of India (2022)?

- (i) The Supreme Court held that there must be a PMLA scheduled offence under PMLA, 2002 and also property derived or obtained from “criminal activity” relating to the scheduled offence both “before” there can be Proceeds of Crime (PoC).
- (ii) The Supreme Court held that the NDPS offence must be examined against the PMLA Schedule offence under the PMLA, 2002 and also the particular allegations in the NCB case “both”.
- (iii) The Supreme Court subsequently reiterated that the existence of PMLA scheduled offence under the PMLA, 2002 is a condition precedent for the existence of Proceeds of Crime (PoC).

15. Whether the NCB case is “automatically” the PMLA case?

- **No**
- (i) The Supreme court held in case of Vijay Madanlal v. Union of India (2022) that the NCB case under the NDPS Act, 1985 is “not automatically” PMLA case under the PMLA, 2002
- (ii) The Supreme court held that the ED under the PMLA, 2002 is “not permitted” to say that the NCB case under the NDPS Act, 1985, therefore there are Proceeds of Crime (PoC)

16. What are important legal questions in Vijay Madanlal v. Union of India (2022)?

- (i) **The existence of NCB offence under the NDPS Act, 1985**
 - (a) What exact NDPS offence is alleged under the NDPS Act, 1985?
 - (b) Is that offence a PMLA scheduled offence under the PMLA, 2002?
 - (c) What “criminal activity” is alleged under the PMLA, 2002?
 - (d) What property or money is said to have been generated from it under the PMLA, 2002?
 - (e) What are the identifiable Proceeds of Crime (PoC) trail under PMLA, 2002?



- (f) *How is the particular person connected with that property under PMLA, 2002?*
- (g) *What laundering activity is attributed to that person under sec. 3 of PMLA, 2002?*
- (ii) (a) *The Supreme Court has described money laundering as an independent offence concerning a process or activity connected with Proceeds of Crime (PoC)*
- But*
- (b) *These Proceeds of Crime (PoC) are required to be originated from “criminal activity” relating to a PMLA scheduled offence under the PMLA, 2002.*

17. What is Delhi High Court case of Anshad Badruddin v. ED (2026)?

- (i) *This is a useful recent authority because it expressly relied on Pavana Dibbur v. ED (2023) and R.K.M. Powergen v. ED (2025).*
- (ii) **The Delhi High Court reiterated that:**
 - (a) *A PMLA scheduled offence is foundational for ED investigations and adjudications under the PMLA, 2002*
 - (b) *Proceeds of Crime (PoC) is required to be related to that PMLA scheduled offence under the PMLA, 2002*
 - (c) *The ED’s jurisdiction is not unlimited under the PMLA, 2002*
- (iii) *The PMLA cannot be invoked merely because there is some alleged “criminal activity” unrelated to a PMLA scheduled offence under the PMLA, 2002.*

18. What is Delhi High Court case of Kanchana Rai v. ED (2026)?

- (i) *The Delhi High Court discussed Vijay Madanlal v. Union of India (2022) and Pavana Dibbur v. ED (2023), including the distinction between:*
 - (a) *A person who was not an accused in the predicate offence under the NDPS Act, 1985 but is alleged to have dealt with its Proceeds of Crime (PoC) under the PMLA, 2002 and*
 - (b) *A situation where the predicate offence under the NDPS Act, 1985 itself has ceased to exist.*



- (ii) *The Delhi High Court emphasised that PMLA proceedings cannot simply continue indefinitely when the very foundation, the scheduled offence under the NDPS Act, 1985 has disappeared.*

19. What is Delhi High Court case of Bhupesh Arora v. ED (2026)?

- (i) *The Delhi High Court examined the requirement that the alleged Proceeds of Crime (PoC) required to be specifically connected to the PMLA scheduled offence under the PMLA, 2002.*
- (ii) *The Delhi High Court cautioned against treating a large volume of transactions as Proceeds of Crime (PoC) merely because those transactions appear within the broader investigation by the ED under the PMLA, 2002.*
- (iii) *This Delhi High Court case is potentially very useful when ED's alleged Proceeds of Crime (PoC) figure is "based upon gross banking transactions" rather than a traceable amount under the PMLA, 2002.*

20. What is Karnataka High Court case of Prathap N v. ED (2026)?

- (i) *The Karnataka High Court applied Pavana Dibbur v. ED (2023) and dealt extensively with the consequences of the predicate proceedings ceasing to exist under the NDPS Act, 1985.*
- (ii) *The Karnataka High Court emphasised that when the predicate proceedings have been completely extinguished under the NDPS Act, 1985 and that position remains operative, the ED cannot simply keep the PMLA proceedings alive by treating the predicate offence as notionally continuing under the PMLA, 2002.*

21. What is Punjab & Haryana Court case of Sukhpal Singh Khaira v. ED (2025)?

- (i) *This case is presently one of the most directly relevant for a NCB/NDPS → ED/PMLA nexus.*
- (ii) ***The predicate case involved:***
- (a) *The sections 21, 23, 27-A and 29 under the NDPS Act, 1985*
- (b) *The heroin smuggling*



- (c) *An accused, Gurdev Singh, who was convicted*
- (d) *ED subsequently alleged that drug proceeds were provided to Sukhpal Khaira*
- (e) *The petitioner argued that his NDPS proceedings were stayed and therefore the PMLA trial should also be deferred.*
- (iii) *The High Court rejected the request to defer the PMLA proceedings.*
- (iv) *It distinguished Bharti Cement, because in Bharti Cement the same person was facing both the PMLA scheduled offence and PMLA proceedings under the PMLA, 2002 where in Sukhpal Singh Khaira it's alleged to have generated the Proceeds of Crime (PoC) and the accused Gurdev Singh had already been convicted.*
- (v) **Why this case matters?**
 - (a) *It's demonstrating the distinction between NCB/NDPS prosecution against Sukhpal Singh Khaira is pending or stayed*
 - (b) *The ED alleges Sukhpal Singh Khaira himself generated Proceeds of Crime (PoC)*
 - (c) *The NDPS accused Gurdev Singh has already been convicted*
 - (d) *The ED alleges Sukhpal Singh Khaira subsequently received or used Gurdev Singh's Proceeds of Crime (PoC).*
 - (e) *In the 2nd situation, Pavana Dibbur makes the ED case materially stronger because Sukhpal Singh Khaira does not need to have been an accused in the original NDPS offence.*

22. What is Allahabad High Court case of Neeharika Singh v. ED (2025)?

- (i) *The Allahabad High Court drew an important distinction when "all" predicate-offence under the NDPS Act, 1985 accused are:*
 - (a) *Acquitted, or*
 - (b) *Discharged, or*
 - (c) *The entire predicate case is quashed*



- (ii) Therefore, the Allahabad High Court held in this case that there is no surviving scheduled offence under the NDPS Act, 1985 and therefore no Proceeds of Crime (PoC) under the PMLA, 2002
- (iii) **However, the Allahabad High Court held that when “some accused” are:**
- (a) Discharged
 - (b) Acquitted, or
 - (c) The proceedings against them are quashed
- But
- (iv) “Other accused are not discharge”, acquitted or the proceedings against them are quashed, the PMLA proceedings against the “other accused” will continue when there is independent material connecting him to the Proceeds of Crime (PoC) under the PMLA, 2002.
- (v) **Conclusion**
- This Allahabad High Court case of Neeharika Singh v. ED (2025) is highly relevant to the NCB under the NDPS Act, 1985 when the case involving multiple accused.

23. What is Madras High Court case of R.K.M Powergen v. ED (2025)?

- This Madras High Court decision is worth retaining separately from 2022 decision because it applies the Supreme Court’s later PMLA jurisprudence to the question of: Whether the ED can continue proceedings when the alleged predicate offence under the NDPS Act, 1985 itself is absent?

24. What is Telangana High Court case of Bharti Cement Corporation v. ED (2022)?

- (i) This case is important because where:
- (a) The “same accused faces” the predicate offence under the NDPS Act, 1985 and the PMLA, 2002
 - (b) Both trials are pending
 - (c) The outcome of the PMLA scheduled offence under the PMLA, 2002 would directly determine whether Proceeds of Crime (PoC) existed.



- (ii) *The reasoning was that the PMLA Special Court should not finally pronounce upon the money-laundering charge “before” there is a definite finding regarding the PMLA scheduled offence generating the alleged Proceeds of Crime (PoC) under the PMLA, 2002.*
- (iii) *The Punjab & Haryana High Court in Sukhpal Singh Khaira expressly distinguished Bharti Cement on these facts.*
- (iv) **Practical significance:**
 - *Do not cite Bharti Cement “without” 1st examining who is the accused in the NDPS case and who is the accused in the PMLA case.*

25. What is Madras High Court case of Powergen Pvt. Ltd v. ED (2022)?

● Application to the ED under the PMLA, 2002 ●

- (i) *The ED cannot use PMLA investigation itself to discover whether a predicate/scheduled offence existed under the PMLA, 2002.*
- (ii) *The Supreme Court had dismissed the challenge while recording that, when there was no predicate offence under the Customs Act, the ED could not use PMLA powers to discover the existence of a predicate offence under the PMLA, 2002 described as “putting the cart before the horse.”*
- (iii) *This principle was again considered in R.K.M. Powergen Pvt. Ltd. v. ED (2025).*

● Application to the NCB under the NDPS Act, 1985 ●

- (iv) **This judgement gives you an important question:**
 - (a) *Did the NCB case actually disclose a scheduled NDPS offence under the NDPS Act, 1985 capable of generating the alleged Proceeds of Crime (PoC) under the PMLA, 2002?*
 - *When the answer is no, the ED cannot manufacture the predicate offence merely through its own PMLA investigation under the PMLA, 2002.*



Published By



CA. Satish Agarwal

B.com (Hons.) FCA

Practicing Chartered Accountant Since 1985

+919811081957

9/14 (First Floor) East Patel Nagar, New Delhi- 110008

Email: satishagarwal307@yahoo.com

Website: www.femainindia.com

◆ *Disclaimer*

- 1.** *The contents of these Weekly Updates are provided solely for informational purposes. Neither these Weekly Updates nor the information contained herein constitutes a contract or forms the basis of any contract.*
- 2.** *The material contained in these Weekly Updates does not constitute professional advice and should not be relied upon as a substitute for obtaining appropriate professional advice before acting on any matter.*
- 3.** *Every reasonable care has been taken in the preparation of these Weekly Updates to ensure the accuracy of the information contained herein as of the date of publication.*
- 4.** *Satish Agarwal assumes no responsibility or liability for any errors or omissions that may be found in these Weekly Updates despite all reasonable precautions taken in their preparation.*
- 5.** *Satish Agarwal shall not be liable for any direct, indirect, incidental, special, or consequential damages arising out of, or in any way connected with, the use of these Weekly Updates or the information contained herein.*

Oct-2026

