

  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**

D.B. Criminal Reference No. 3/2025

Nirmal Kumar Sharma S/o Ram Swroop Sharma, Aged About 44  
Years, R/o 62-63, Central Colony, Opposite Road Number 09  
Sikar Road, Jaipur 302039

----Petitioner/Accused

Versus

Union Of India, Through Its Superintendent (Tax Evasion  
Branch), CGST And Central Excise Commissionerate, Jaipur.

----Complainant/Respondent

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For Petitioner(s)	:	Mr. Shiv Charan Gupta Mr. Swadeep Singh Hora Mr. Yogesh Kumar Gupta
For Respondent(s)	:	Mr. Rajesh Choudhary, GA cum AAG with Mr. Aman Agarwal Ms. Neha Goyal Mr. Vinod Sharma Mr. Anirudh Singh Mr. Akshay Bhardwaj with Mr. Mohit Kumar Soni

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**HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL  
HON'BLE MR. JUSTICE ANOOP KUMAR DHAND  
HON'BLE MR. JUSTICE BHUWAN GOYAL**

**Order**

**30/03/2026**

**Per Mahendar Kumar Goyal, J.**

The following question has been referred to be answered by  
this Larger Bench:-

“Whether the arrest warrants issued against  
the accused committing economic offence or  
heinous offences like murder/rape/dowry  
death/dacoity etc. can be converted into bailable  
warrants as a matter of right of the accused by  
invoking the powers contained under Sections  
70(2) Cr.P.C. and 72(2) B.N.S.S. as a matter of  
right?”

The aforesaid question has been referred by a learned Single Judge of this Court under the following factual backdrop.

The learned Single Judge, while hearing a Criminal Miscellaneous Petition No. 1947/2025 filed under Section 482 Cr.P.C against the order dated 11.03.2025 passed by learned Additional Chief Judicial Magistrate (Economic Offences) Jaipur Metropolitan-II in criminal case No. 15/2024 whereby, an application filed by the petitioner under Section 70(2) Cr.P.C. for converting the non-bailable warrant into bailable warrant, was rejected, found the judgments of Coordinate Benches to have conflicting views. After referring the judgments of the learned Single Judges of this Court in the cases of **Girdhar Gopal Bajoria Vs. Rajesh Kumar Sharma and another connected matter; Criminal Revision Petition No. 731/2021; Shyam Sunder Singhvi and Ors. Vs. Union of India and Ors.; MANU/RH/0096/2020 and PC Purohit Vs. Union of India; MANU/RH/0247/2025**, the learned Single Judge held as under:-

22. On the same issue, conflicting views have been given by different Co-ordinate Benches of this Court, hence, it is difficult for this Court to follow a particular view i.e. either in favour or go against such economic offenders committing offences under the provisions of the PMLA/Customs Act/CGST Act and heinous offences punishable under IPC/BNS.

It was further held by the learned Single Judge as under:-

27. There is no exact and settled decision of this Court on the legal issue involved in this petition,

rather there are conflicting opinions and views of different Co-ordinate Benches of this Court, hence, the same is required to be decided for all times to come, so that there should be uniformity in the orders on the said legal issue involved in these petitions.

28. In a situation like the present one, where two conflicting views have been taken by the different Co-ordinate Single Benches of this Court, this Court has no other option but to refer the matter to the Special/Larger Bench so that the controversy is put to rest in accordance with law.

Learned counsel Shri S.C. Gupta submits that no conflicting view has been expressed by this Court in any of the aforesaid three judgments or for that matter, in any of the two judgment. Other learned counsels also adopted the same submission.

Heard. Considered.

In the case of **Girdhar Gopal Bajaria (Surpa)**, a learned Single Judge of this Court has held as under:-

“Therefore, learned court below was legally justified in issuing non-bailable warrants against the petitioners as the offence for which cognizance has been taken against the petitioners, is an economic offence punishable under Section 3 read with Section 4 of the PML Act and **looking to the facts and circumstances of the case, it cannot be held that the order relating to issuance of non-bailable warrants has been passed without taking into consideration the entire relevant facts and circumstance of the case.**

As per the judgment of Hon’ble Supreme Court in **Inder Mohan Goswami v. State of Uttaranchal** (supra), it is the duty of the trial court that there must be a proper scrutiny of facts and complete application of mind, before non-bailable warrant is issued. It has also been held that there cannot be any straightjacket formula for issuance of warrant, as a general rule, unless an accused is charged with commission of an offence of heinous crime and it is feared that he is likely to tamper or destroy the

evidence or is likely to evade the process of law. Issuance of non-bailable warrant should be avoided, but in this case, coming to a prima facie satisfaction about the commission of offence under Sections 3/4 of the PML Act, the learned trial court has taken cognizance against the petitioners for the alleged crime and has issued non-bailable warrants against them.

xxx                      xxx                      xxx                      xxx

So far as the staying of the impugned order by which cognizance has been taken against the petitioners for offence punishable under Section 3 read with Section 4 of the PML Act is concerned, without commenting upon detailed merits of the cognizance order, it would suffice to hold that the petitioners have not been able to demonstrate any prima facie case for staying the impugned order by which cognizance has been taken against them.

Looking to the various pronouncements of Hon'ble Supreme Court in which it has been held that severity of the offence for which a cognizance has been taken against the petitioners and other relevant factors, the trial court has discretion to issue non-bailable warrants. Keeping in mind that the cognizance has been taken for offences punishable under the PML Act against the petitioners, which is an economic offence and Hon'ble Apex Court has consistently held that such offences need to be treated on a different footing. Also keeping in mind the provisions of Section 45 of the PML Act, at this stage it cannot be held that the learned trial court has committed any legal error in passing the order of issuance of non-bailable warrants.

Therefore, keeping in mind various provisions of the PML Act and principles laid down by the Hon'ble Apex Court as discussed above, the petitioners have not been able to prima facie make out any case for staying the arrest warrants directed to be issued against them vide impugned order dated 12.07.2021. Consequently, the stay applications are liable to be dismissed."

From the aforesaid observations, it is reflected that the issue involved was issuance of non-bailable warrant against the petitioner while taking cognizance against them for the offence punishable under Section 3 read with Section 4 of the PML Act and

no question of its conversion to bailable warrant under Section 70(2) Cr.P.C. or Section 72(2) B.N.S.S. was involved. Further, after appreciating the facts and circumstances of the case in the backdrop of settled legal principles, it was held by the learned Single Judge that the petitioners were not able to make out a *prima facie* case for staying the arrest warrant. Resultantly, the stay application was dismissed.

In the case of **Shyam Sunder Singhvi (Supra)**, another learned Single Judge of this Court has held as under:-

62. This court finds that the court below has taken into account the nature of allegations levelled against the accused petitioners, role of accused petitioners, impact of the alleged offences on the society and the scope of interference in economic matters by giving undue leverage to the accused petitioners affecting the interest of the society and has accordingly rejected the prayer of the petitioners in rightful manner. The offences under PMLA, 2002 are cognizable and non-bailable, as per Section 45 of the Act.

63. This court does not find any error in the orders passed by the court below and accordingly all the petitions are dismissed. This court makes it clear that what has been observed by this court is only for the purpose of disposal of the present revision petitions and misc. petitions and any observation made, shall either may not prejudice rights of the parties and the trial court may also not be influenced/inhibited, by the observations made by this court and the trial court shall proceed independently in accordance with the law. No cost."

Thus, in the aforesaid case, since, the learned Court below had rejected the prayer of the petitioner for conversion of non-bailable warrant into bailable warrant taking into account the nature of allegations levelled against the accused-petitioners and the role played by them, amongst others, the Court found no error

in the orders passed by the Court below. However, no view was expressed as to whether an economic offender can claim, as a matter of right, conversion of non-bailable warrant into bailable warrant under Section 70(2) Cr.P.C or Section 72(2) of the B.N.S.S.

Similarly, in the case of **P.C. Purohit (Supra)**, it was held by the learned Single Judge as under:-

**36.** The allegation against the accused petitioner and the co-accused is that they have evaded the GST of amount around Rs. 2,000 Crores. On a query put forth by the Court, the learned Special Public Prosecutor replied that the accused petitioner and co-accused have paid the GST amounting to Rs. 1077 Crores. The petitioner along-with other persons are doing their business and contributing to the Nation's economy and are also generating the employment. The employment is the backbone of a developing country.

**37.** Whether the allegation of evasion of GST amount made against the accused petitioner and the co-accused are correct or false, is to be decided by the Competent Court on the basis of the evidence of the parties. The petitioner during the course of investigation has appeared before the Investigating Officer on receipt of summons and has been interrogated and his statements have also been recorded as required under the CGST Act.

**39.** Taking into consideration the overall facts and circumstances of the case and the discussion made above, the Court is of the opinion that it is a fit case to exercise the inherent jurisdiction.

In the aforesaid judgment also, the learned Single Judge, before allowing the application filed by the accused-petitioner under Section 72(2) of the B.N.S.S., held that the accused petitioner and co-accused have already paid the GST amount of

Rs. 1077 crores, were doing their business, were contributing to the nations economy and were also generating the employment which was backbone of a developing country. The learned Single Judge also took into consideration that the petitioner, during the course of investigation, has appeared before the Investigating Officer on the receipt of summons and has been interrogated and his statements have also recorded and as required under the CGST Act.

Thus, taking into consideration the overall facts and circumstances of the case and the discussions made, the learned Single Judge exercised its inherent jurisdiction under Section 482 Cr.P.C. and converted the non-bailable warrant to bailable warrant.

In the aforesaid case too, the learned Single Judge has laid down no such legal principle that an accused has a vested legal right for conversion of non-bailable warrant into bailable warrant.

Therefore, after meticulously and forensically examining the aforesaid judgments in the cases of **Girdhar Gopal Bajoria (Supra)**, **Shyam Sunder Singhvi (Supra)** and **PC Purohit (Supra)**, we find that, no view has been expressed by any of the learned Single Judges as to whether an economic offender committing offences under the provisions of PMLA, Customs Act, CGST Act or an accused of heinous offences punishable under IPC/BNS, can claim, as a matter of right, conversion of non-bailable warrant into bailable warrant under Section 70(2) Cr.P.C. or under Section 72(2) B.N.S.S. much less the conflicting views as the judgments were delivered based on the specific facts of each case.

In view of the aforesaid, we are of the opinion that the reference requires no answer. The learned Single Judge may decide the matter on its merit.

**(BHUWAN GOYAL),J**

**(MAHENDAR KUMAR GOYAL),J**

**Per ANOOP KUMAR DHAND, J. (concurring)**

1. Finding three different contradictory orders, passed by three different Co-ordinate Benches of this Court in the cases of **Girdhar Gopal Bajoria** (supra), **Shyam Sunder Singhvi** (supra) & **PC Purohit** (supra), the Single Bench has formulated the above referred question of law and referred the same to the Special/Larger Bench to answer.

2. Mr. S.S. Hora, Adv., learned counsel for the petitioner submits that in the case of **Girdhar Gopal Bajoria** (supra), a challenge has been made to the impugned order 12.07.2021 passed by the Court of the Sessions Judge, PMLA, 2002/Special Judge CBI Cases No.3, Jaipur Metropolitan-I by which cognizance was taken against the accused persons therein, under Sections 3 & 4 of the PML Act, 2002 and they were summoned through arrest warrants. Counsel submits that the accused persons approached this Court by way of filing both the Criminal Revision Petition Nos.731/2021 & 732/2021. The said revision petitions were submitted before this Court with the prayer to convert the arrest warrants of the accused persons into bailable warrants. The main petitions are still pending, but the stay applications have been rejected by the Co-ordinate Bench of this Court on 23.09.2021 while no question of law has been settled till date and merely, the stay applications have been rejected. Consequently, the prayer for converting arrest warrants into bailable warrants was not entertained while the main petitions are still lying pending for adjudication on merits.

3. Mr. Rajesh Choudhary, GA-cum-AAG and Mr. Akshay Bhardwaj, counsel appearing for Union of India submit that even in the cases of **PC Purohit** (supra) and **Shyam Sunder Singhvi** (supra), no such legal issue with regard to conversion of arrest warrants intoailable warrants has been discussed. These matters have been decided on the facts and merits of the particular cases.

4. Having noted the aforesaid three orders/ judgments and particularly the issue involved therein, I am of the considered view that there is no conflict insofar as ratio of the three cases is concerned. Moreover, these three matters, i.e., **Girdhar Gopal Bajoria** (supra), **Shyam Sunder Singhvi** (supra) and **PC Purohit** (supra) have been decided on the basis of peculiar facts of the individual case, with no discussion on any principle of law, hence, the question involved in reference requires no answer. Accordingly, I concur with the view expressed by my esteemed brothers.

**(ANOOP KUMAR DHAND), J**