RAJASTHAN HIGH COURT
सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 1947/2025

Nirmal Kumar Sharma S/o Ram Swroop Sharma, Aged About 44 Years, R/o 62-63, Central Colony, Opposite Road Number 9, Sikar Road, Jaipur- 302039.

----Petitioner

Rajasthan High Court
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Versus

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

----Respondent

For Petitioner(s) : Mr. Rahul Khandelwal

For Respondent(s) : Mr. Amit Gupta-PP
Mr. Akshay Bhardwaj
Mr. Banwari Lal Takhar with
Mr. Prithvi Singh Deora

JUSTICE ANOOP KUMAR DHAND

Order

1.	**Date of conclusion of arguments**	**06/11/2025**
2.	**Date on which judgment was reserved**	**06/11/2025**
3	**Whether the full judgment or only the operative part is pronounced:**	**Full judgment**
4.	**Date of pronouncement**	**13/11/2025**

Reportable

1. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned order dated 11.03.2025 passed by the Additional Chief Judicial Magistrate (Economic Offences) Jaipur Metropolitan-II in criminal case No. 15/2024 by which the application submitted by the petitioner under Section 70(2) Cr.P.C for conversion of arrest warrants into bailable warrants has been rejected.

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2. Counsel for the petitioner submits that a complaint under Section 132(1) (B)(C)(L) of the CGST Act, 2017 read with Section 132 (1)(i) of the Customs Act, 1962 has been filed against the petitioner. Counsel for the petitioner submits that during the course of investigation, the Investigating Agency had ample opportunity to apprehend/arrest the petitioner but no steps in this regard were taken and the complaint was filed against the petitioner for the above stated offences. Counsel submits that the learned Magistrate vide impugned order dated 11.03.2025 has taken cognizance against the petitioner for the above stated offences and has issued arrest warrants straightaway to procure the appearance of the petitioner. Counsel submits that no such arrest warrants have been issued against the petitioner at the initial stage of the investigation proceedings as the petitioner was ready and willing to appear before the trial Court. Counsel submits that the allegation against the petitioner is that of evading tax amounting to Rs. 6 Lakhs only, hence, under these circumstances, arrest of the petitioner is not required and the impugned order passed by the Court below be quashed and set aside. Counsel further submits that directions be issued to the Court below to summon the petitioner through summons or bailable warrants. In support of his contentions, he has placed reliance upon the judgment passed by the Co-ordinate Bench of this Court in the case of **P.C. Purohit Vs. Union of India**, reported in **2025 Supreme (Raj.) 1527**. Lastly, he argued that the offence under Section 132 of the CGST Act is punishable with five years imprisonment and the same is triable by Magistrate, hence the arrest of the petitioner is not required.

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3. Per contra, learned Public Prosecutor as well as the counsels appearing on behalf of the respondents opposed the arguments raised by counsel for the petitioner and submitted that the allegation against the petitioner is that of tax evasion amounting to Rs. 10,65,23,833/-. Counsel submits that the aforesaid act of the petitioner amounts to heinous economic offence. Counsel submits that a similar situation came up before the Co-ordinate Bench of this Court wherein after taking cognizance against the accused, he was also summoned through arrest warrants and he approached this Court by way of filing S.B. Criminal Revision Petition Nos. 731-732/2021 (**Girdhar Gopal Bajoria Vs. Rajesh Kumar Sharma and M/S Agribiotech Industries Ltd. Vs. Rajesh Kumar Sharma)**. Counsel submits that the aforesaid petitions, submitted by the above stated accused persons, were rejected by the Co-ordinate Bench of this Court vide order dated 23.09.2021 after taking note of several judgments passed by the Hon'ble Apex Court. Counsel submits that the aforesaid earlier view taken by the Co-ordinate Bench of this Court in the case of **Girdhar Gopal Bajoria** (Supra) was not brought into the notice of the Co-ordinate Bench in the case of **P.C. Purohit** (Supra). Hence, under these circumstances, the view taken by the Co-ordinate Bench of this Court on earlier occasion would prevail in the light of the judgment passed by Hon'ble Apex Court in the case of **Union of India and Others Vs. S.K. Kapoor**, reported in **2011 (4) SCC 589**. Counsel submits that in view of the submissions made herein above, the instant petition filed by the petitioner be rejected.

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4. Heard and considered the submissions made at Bar and perused the material available on record.

5. A complaint under Section 132 of the CGST Act read with Section 132 of the Customs Act was submitted against the petitioner wherein it has been alleged that a sum of Rs. 10,65,23,833/- has been claimed as Input Tax Credit and finding a prima facie case against the petitioner, cognizance has been taken against him for the above stated offence and he has been summoned through arrest warrants. By way of filing this petition, the petitioner has made a prayer for conversion of the arrest warrants into bailable warrants. Meaning thereby that the petitioner has prayed for anticipatory bail in the form of warrants. Serious allegations of tax evasion of crores of rupees have been levelled against the petitioner.

6. A common man of this Country is paying all kinds of taxes including CGST and SGST to the Central and the State Government for development and building of the Nation and the States but the persons like the petitioner are causing obstruction in the development of the Nation as well as the States by creating fake firms and causing huge loss of Rs.10.65,23,833/- to the public exchequer. Such economic offences committed by accused persons like the petitioner, are required to be dealt with a different approach in the matter of bail.

7. The economic offence, having deep rooted conspiracies and involving causing of huge loss to the public exchequer, needs to be viewed seriously and must be considered as grave offence, affecting the economy of the Nation as a whole and thereby posing serious threat to the financial health of the Country.

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Economic offence is always committed by a person with calculated design, profiting himself regardless of the consequences caused to the community at large.

8. The anti-social activities of persons of the upper strata in their occupations, which have become known as "white-collar crimes", have been given their due importance in the recent past years, after enactment of the CGST Act, 2017. The object of this Act is to make a provision for levy and collection of tax on intra-State supply of goods or services or both by the Central Government and for matters connected therewith or incidental thereto.

9. During last few decades, our Country has seen execution of various plannings involving huge expenditure by the Government for various nation building activities. The corrupt officers, businessmen and contractors never had been so good in making their true contribution in the development works of the nation. No doubt the country did make some progress but a big chunk of money earmarked for developmental projects has been pocketed by the "white-collar criminals" by doing illegal activities of causing huge loss to our Country running in crores of rupees.

10. This Court finds no substance in the arguments of counsel for the petitioner that the petitioner is entitled to get bail merely because the alleged offence under Section 132 of the CGST Act, 2017 is punishable with imprisonment of five years and the same is triable by the Court of First Class Magistrate. There cannot be any straight jacket formula to decide the bail applications in favour to the accused merely because the alleged offence is triable by the Court of Judicial Magistrate (First Class) and the same is

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punishable with imprisonment of five years only. Every bail application is required to be decided on its own facts and circumstances and merits of the case. Every case has different facts and allegations and while deciding the bail applications, the Court has to keep the nature of evidence and accusation in mind and then decide the bail applications accordingly. Hon'ble Apex Court in the case of **Nimmagadda Prasad vs. Central Bureau of Investigation** reported in **2013(7) SCC 466** has held in para 24 as under:-

> "24. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the Legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the Court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."

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11. The judgment relied upon by the petitioner in the case of **P.C.Purohit** (Supra) was passed in ignorance of the judgment passed in the case of **Girdhar Gopal Bajaria (Supra)**.

12. Creation of fake/non-existing Firms with an intent to pass on fake ITC on the basis of alleged supply shown in fake invoices and thereby passing on fake ITC to various beneficiaries and thus evading tax in crores of rupees, which affects the economy of the nation, and the same would certainly fall within the purview of grave economic offences.

13. The Hon'ble Supreme Court has repeatedly held that economic offences constitute a distinct class of crime. In **Y.S. Jagan Mohan Reddy Vs. CBI** reported in **2013 (7) SCC 439**, the Apex Court observed as under:-

> "Economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole."

14. Similarly, in **Nimmagadda Prasad (Supra),** the Apex Court underscored that economic offences are more serious than ordinary crimes because they involve deliberate design with an eye on personal profit regardless of the consequence to public interest.

15. The Hon'ble Supreme Court in the case of **Rohit Tandon vs Directorate of Enforcement** reported in **(2018)11 SCC 46**, while following the judgment in the case of **Y.S. Jagan Mohan Reddy** (supra.) categorically held that white-collar crimes are more dangerous to society than ordinary crimes, as they are committed with deliberate calculation, breach of trust, and often result in significant financial loss to the public exchequer. The

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Court emphasized that such offences are deep-rooted economic conspiracies involving abuse of official positions and must not be treated leniently merely because they are non-violent.

16. In State of **Gujarat Vs. Mohanlal Jitamalji Porwal**, reported in **1987(2) SCC 364**, the Apex Court observed that economic offences corrode the fabric of democracy and are committed with cool calculation and deliberate design, and hence, courts must deal with such offences with a firm hand.

17. Thus, in economic offences, where the accused is often well resourced and capable of manipulating evidence or evading process, their past and present conduct becomes a crucial factor that cannot be ignored while exercising judicial discretion for bail.

18. The Co-ordinate Bench of this Court in the case of **Girdhar Gopal Bajaria** (Supra) has dealt with the identical issue wherein also cognizance was taken against the accused under Section 3 and 4 of the Prevention of Money Laundering Act, 2002 (for short, 'PMLA') and he was summoned through arrest warrants. It was 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,

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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."

19. The Co-ordinate Bench of this Court in a bunch of criminal revision petitions with the leading case of **Shyam Sunder Singhvi Vs. Union of India**, (S.B. Criminal Revision Petition No.

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273/2019, decided on 24.01.2020) has also taken the same view while reproducing the judgment of the Hon'ble Apex Court in the case of **Inder Mohan Goswami Vs. State of Uttranchal reported in (2007) 12 SCC 1,** in para 57 to 63 which reads as under:-

"57. This court deems it proper to refer the relevant paragraphs of the judgment rendered by the Apex Court in **Inder Mohan Goswami Vs. State of Uttranchal** reported in **(2007) 12 SCC 1**, which are as follows :-

> "6. According to the appellants, time was the essence of the contract and respondent no.3 had failed to pay the balance amount by Rs.10,10,650/-. The Sabha had sent a legal notice dated 3.4.1999 (first legal notice) to respondent no.3 to fulfill his contractual obligations under the sale agreement and informing that if he failed to do so, the agreement to sell would stand cancelled and the amount paid as earnest money would be forfeited. In reply to the said notice, respondent no.3 vide his reply dated 5.5.1999 stated that he had not defaulted in payment of the remaining amount. He stated in the reply that as per the agreement the land had to be measured and that he was ready to pay the balance amount once that was done.
>
> 7. Pt. Mohan Lal Sharma, the President of the Sabha, expired on 30.8.1999. On 5.1.2000, both the parties i.e. the representative of the Sabha and the representatives of M/s Ahuja Builders met at the site of the disputed land in the presence of Patwari (Revenue Official). The land of old Khasra No.140 and new Khasra Nos.61, 62, 63, 64, 65, 66, 67, 68 and part of 89, 90 was measured by the Patwari. The balance land, after adjusting the land given in lieu of construction of the Ghat, came out to be 11.19 Bighas. The total sale consideration for this land worked out to be Rs.15,10,650/-. Respondent no.3 had already paid Rs.4,00,000/- as earnest money out of this amount. He had paid a further sum of Rs.1,00,000/- on 21.3.1997. On the request of respondent no.3, the Sabha reduced the amount owed of Rs.1,50,000/- to him in view of the existence of a passage on the said land. Out of the balance of Rs.8,60,650/-, a further concession of Rs.60,650/- was given to Respondent no.3. He thus had to pay the balance amount of Rs.8,00,000/-. The said measurement sheet was endorsed by respondent

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nos.3 and 4 and the representatives of the Sabha on 19.3.2000.

8. The general power of attorney executed by late Mohan Lal Sharma, President of the Sabha, had ceased to be in effect after his death. Therefore, the need of a fresh power of attorney was felt and respondent no.3 desired that the fresh Power of Attorney be executed in the name of his son, Suresh Ahuja (respondent no.4 herein) for the very same 13.5 Bighas of land in regard to which earlier Power of Attorney dated 13.12.1996 had been given. Accordingly, General Secretary of the Sabha, appellant no.1 herein, executed a fresh General Power of Attorney on 15.1.2000 in respect of 13.5 Bighas of land situated in part of Old Khasra No.140 (new Khasra Nos. 61, 62, 63, 64, 65, 66, 67, 68 and part of 89, 90) in Village Haripur Kalan, Rishikesh, Dehradun, in favour of Suresh Ahuja (respondent no.4) as per the request of respondent no.3.

12. Having committed breach of his contractual obligations, respondent no.3 filed a criminal complaint to the SHO of Raiwala, Rishikesh police station on 23.4.2003 against the appellants and three other persons alleging that he had been cheated by the appellants in connivance with other persons by selling a portion of his land to a third party and by cancelling the General Power of Attorney. After examining the matter, the SHO arrived at the conclusion that no cognizable offence had been committed and the dispute in question was of civil nature for which the civil remedy is available in law.

13. Respondent no.3 filed another complaint on the same day, i.e. 23.4.2003, to the Senior Superintendent of Police, Dehradun and got the FIR registered against the appellant and three other persons. The allegation of respondent no.3 was that the appellants in connivance with other persons had sold the part of land situated in Old Khasra No.140 and new Khasra No.89 which had been transferred to them by way of General Power of Attorney. The FIR was registered on 23.4.2003 as Case No.26 of 2003 under sections 420, 467 and 120-B IPC.

14. It may be pertinent to mention that on 27.5.2003, respondent no.3 filed a civil suit in the court of Civil Judge (Senior Division) against the Sabha bearing Original Suit No.302 of 2003 titled Himmat Rai Ahuja v. Sanatan Dharam Pratinidhi Sabha. In this suit, respondent no.3 prayed for cancellation of sale deed executed by the Sabha in favour of Sunil Kumar and for permanent injunction against the appellants herein restraining them from interfering in his alleged property. Thus, the issues

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relating to ascertaining the right, title of the land in dispute and also the issue of correct demarcation of land in Khasra No.140 are pending adjudication in a competent civil court.

16. Aggrieved by the filing of the false and incorrect charge- sheet in the court of Special Judicial Magistrate, Rishikesh in Criminal Case No.1728 of 2003 titled State v. Inder Mohan Goswami & Others, the appellants filed a Criminal Miscellaneous Application No.248 of 2003 in the High Court of Uttaranchal at Nainital under Section 482 Cr.P.C. for quashing the proceedings against them. The High Court was pleased to pass the interim order on 22.10.2003 staying further proceedings. A reply was filed on behalf of the State by Shri Dinesh Kumar Sharma, SHO, Raiwala Police Station, in which two points were raised:

> 1. That, appellant no.1 has wrongly cancelled the General Power of Attorney given to respondent no.4; and
>
> 2. That, appellant no.1 has wrongly and illegally executed the sale deed of land comprising in Khasra No.140 (New Khasra Nos.61 to 68, 89 and 90) without returning the earnest money of respondent Nos.3 and 4.

17. The High Court by order dated 16.7.2004 dismissed the petition under Section 482 Cr.P.C. filed by the appellants on the ground that the records show that the allegations in the FIR constitute an offence as alleged by the complainant. The said order is challenged in this appeal by special leave.

22. The veracity of the facts alleged by the appellants and the respondents can only be ascertained on the basis of evidence and documents by a civil court of competent jurisdiction. The dispute in question is purely of civil nature and respondent no.3 has already instituted a civil suit in the court of Civil Judge. In the facts and circumstances of this case, initiating criminal proceedings by the respondents against the appellants is clearly an abuse of the process of the court.

46. The court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurize the accused. On analysis of the aforementioned cases, we are of the opinion that it is neither possible nor desirable to lay down an inflexible rule that would govern the exercise of inherent jurisdiction. Inherent jurisdiction of the High Courts under Section 482 Cr.P.C. though wide has to be exercised sparingly, carefully and with caution and only when it is justified by the tests specifically laid down in the Statute itself and in the aforementioned

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cases. In view of the settled legal position, the impugned judgment cannot be sustained.

47. Before parting with this appeal, we would like to discuss an issue which is of great public importance, i.e., how and when warrants should be issued by the Court? It has come to our notice that in many cases that bailable and non-bailable warrants are issued casually and mechanically. In the instant case, the court without properly comprehending the nature of controversy involved and without exhausting the available remedies issued non-bailable warrants.

Personal liberty and the interest of the State

50. Civilized countries have recognized that liberty is the most precious of all the human rights. The American Declaration of Independence 1776, French Declaration of the Rights of Men and the Citizen 1789, Universal Declaration of Human Rights and the International Covenant of Civil and Political Rights, 1966 all speak with one voice - liberty is the natural and inalienable right of every human being. Similarly, Article 21 of our Constitution proclaims that no one shall be deprived of his liberty except in accordance with the procedure prescribed by law.

51. The issuance of non-bailable warrants involves interference with personal liberty. Arrest and imprisonment means deprivation of the most precious right of an individual. Therefore, the courts have to be extremely careful before issuing non-bailable warrants.

52. Just as liberty is precious for an individual so is the interest of the society in maintaining law and order. Both are extremely important for the survival of a civilized society. Sometimes in the larger interest of the Public and the State it becomes absolutely imperative to curtail freedom of an individual for a certain period, only then the non-bailable warrants should be issued.

When non-bailable warrants should be issued

53. Non-bailable warrant should be issued to bring a person to court when summons of bailable warrants would be unlikely to have the desired result. This could be when:

- it is reasonable to believe that the person will not voluntarily appear in court; or
- the police authorities are unable to find the person to serve him with a summon; or
- it is considered that the person could harm someone if not placed into custody immediately.

54. As far as possible, if the court is of the opinion that a summon will suffice in getting the appearance of the accused in the court, the summon or the bailable warrants should be preferred. The warrants either bailable or non-bailable should never be issued without

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proper scrutiny of facts and complete application of mind, due to the extremely serious consequences and ramifications which ensue on issuance of warrants. The court must very carefully examine whether the Criminal Complaint or FIR has not been filed with an oblique motive.

55. In complaint cases, at the first instance, the court should direct serving of the summons along with the copy of the complaint. If the accused seem to be avoiding the summons, the court, in the second instance should issue bailable- warrant. In the third instance, when the court is fully satisfied that the accused is avoiding the court's proceeding intentionally, the process of issuance of the non-bailable warrant should be resorted to. Personal liberty is paramount, therefore, we caution courts at the first and second instance to refrain from issuing non-bailable warrants.

56. The power being discretionary must be exercised judiciously with extreme care and caution. The court should properly balance both personal liberty and societal interest before issuing warrants. There cannot be any straight-jacket formula for issuance of warrants but as a general rule, unless an accused is charged with the commission of an offence of a 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 warrants should be avoided.

57. The Court should try to maintain proper balance between individual liberty and the interest of the public and the State while issuing non-bailable warrant."

58. In the humble opinion of this court, the Apex Court on analysing the facts of the case of Inder Mohan Goswami (supra) came to the conclusion that the averments made in the FIR do not make out a case for prosecution under Section 420 and 467 IPC. The Apex Court held that criminal prosecution should not be used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurize the accused. The Apex Court further held that it was neither possible nor desirable to lay down an inflexible rule that would govern the exercise of inherent jurisdiction under Section 482 Cr.P.C. The Apex Court further held that though powers are very wide under Section 482 Cr.P.C. but they are to be exercised sparingly, carefully and with caution. The Apex Court, while considering the issue of personal liberty and the interest of the State and in what manner non-bailable warrants should be issued to bring a person to the court when summons or bailable warrants would be unlikely to have the desired result, held that the court has to properly balance both personal liberty and societal interest before issuing warrants and there cannot be any straitjacket formula for issuance of warrants.

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59. This court finds that time and again the Apex Court has laid down the law that economic offences are required to be dealt with strict approach as these offences affect the economy of the whole Nation and economic offences are committed with a pre-meditated design. This court finds that the economic offences stand on a different footing and they constituent a class apart and need to be visited with a different approach. The economic offences have deep rooted conspiracies and involving huge loss of public funds and thus, need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country. The Apex Court in the case of **Y.S.Jagan Mohan Reddy Vs. CBI** reported in **(2013) 7 SSC 439** has considered the nature of economic offences and the relevant portion of the judgment is quoted hereunder:-

> "34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.
>
> 35. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations."

60. The Apex Court in the case of **State of Gujarat Vs. Mohanlal Jitamalji Porwal and Anr.** reported in **(1987) 2 SSC 364** has considered the nature of economic offences and has held as under:-

> "5. .....The entire Community is aggrieved if the economic offenders who ruin the economy of the State are not brought to books. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the Community. A disregard for the interest of the Community can be manifested only at the cost of forfeiting the trust and faith of the Community in the system to administer justice in an even handed manner without fear of

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criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the National Economy and National Interest. The High Court was therefore altogether unjustified in rejecting the application made by the learned Assistant Public Prosecutor invoking the powers of the Court under Section 391 of the CrPC. We are of the opinion that the application should have been granted in the facts and circumstances of the case with the end in view to do full and true justice. The application made by the learned Assistant Public Prosecutor is therefore granted. The High Court will issue appropriate directions for the recording of the evidence to prove the report of the Mint Master under Section 391 Cr.P.C. when the matter goes back to High Court and is listed for directions. The appeal is therefore allowed. The order of acquittal is set aside. The matter is remitted to the High Court for proceeding further in accordance with law in the light of the abovesaid directions."

61. This court finds that the co-ordinate Bench of this court in **S.B.Criminal Misc. Petition No.474/2010 (Pooran Singh and Anr. Vs. State of Rajasthan)** decided on 25.05.2010 has considered the issue in respect of warrant of arrest issued against the accused persons. The coordinate Bench has also considered the principles laid down by the Apex Court in the case of Inder Mohan Goswami (supra) and found that status of the accused is one of the considerations that has to be taken into account and those people who are supposed to uphold the law and if they violate the law such persons should also realize the consequences of violating the law.

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 cognizance 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."

20. The above order passed in the case of **Shyam Sunder Singhvi** (supra) was assailed before the Hon'ble Apex Court in

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Special Leave to Appeal (Criminal) No. 792/2020, however, the said SLP was rejected on 10.02.2020 and the order of this Court was upheld.

21. But another Co-ordinate Bench of this Court in the case of **P.C. Purohit** (Supra) has taken a different view in similar situation wherein also cognizance was taken against the accused under Section 3/4 of the PMLA and the accused was summoned through arrest warrants and his arrest warrants were converted into bailable warrants by holding in para 35, 36, 37, 39 and 40as under :-

> "**35.** The learned court below while dismissing the application for conversion of non-bailable warrants into the bailable warrants vide impugned order dated 31.01.2025 has observed that after the order of taking cognizance dated 03.08.2024 and issuance of non-bailable warrants for securing the presence of the accused petitioner, there is no substantial change in the matter which could persuade the Court to allow the application filed by the accused petitioner under section 72(2) of the BNSS. Section 72(2) of the BNSS clearly empowers the Court below to cancel every such warrant of arrest issued by the Court under the Sanhita. The petitioner has approached the Court below with the assurance that he will not evade the process of law and would like to join the trial. To support, certain judgments were also cited before the trial court. The learned court below has not even cared to discuss whether what purpose would be served by summoning the accused petitioner by non-bailable warrants when he is ready to join the process of law by appearing before the Court. The court below has only considered the issue that the matter pertains to evasion of huge GST amount. Only an amount cannot be a ground for dismissal of the application. The court below was under an obligation to see whether there is likelihood on the part of the accused petitioner of evading the process of law or he may tamper/destroy the evidence, as has been observed by the Hon'ble Apex Court in the case of Sharif Ahmed (supra). This Court in view of

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the assurance given by the petitioner so as to join the trial and there is no evidence or cognizance against the accused petitioner as regards tampering/destroying the evidence, feels that it is a fit case where the accused petitioner should be allowed the process of law by appearing before the court below without there being non-bailable warrants.

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.

40. Accordingly, the criminal misc. petition filed by the accused petitioner is allowed. The order dated 31.01.2025 passed by the Court of learned Addl. Chief Judicial Magistrate (Economic Offence), Jaipur Metro-II in Criminal Misc Case No. 06/2025 (Union of India v. Miraj Products Limited) is quashed and set aside. The application dated 25.09.2024 filed by the accused petitioner under section 72(2) of the BNSS is allowed. The non-bailable warrants issued against the accused petitioner vide order dated 03.08.2024 are converted into the bailable warrants. The accused petitioner shall appear

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> before the Court of Addl. Chief Judicial Magistrate (Economic Offence), Jaipur within a period of one month from today."

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.

23. The judicial decorum and legal propriety demands that where a Single Bench or Division Bench does not agree with the decision of the Bench of co-ordinate jurisdiction, the matter should be referred to a Larger Bench. This view has been taken by the Hon'ble Apex Court in the case of **Sundaradas Kanyalal Bhathija & Ors vs. The Collector, Thane, Maharashtra,** reported in **AIR 1990 SC 261** and similarly, in the case of **Ayyaswami Gounder V. Munuswamy Gounder**, reported in **AIR 1984 SC 1789**, the Hon'ble Apex Court has held that the Single Bench of the High Court or the Division Bench of the High Court if does not agree with the view taken by some other Single Bench or the Division Bench of the same High Court respectively, it should refer the matter to a Larger Bench and the judicial propriety and decorum do not warrant him/them to take a different view.

24. In the case of **S. Kasi Vs. State Through the Inspector of Police, Samaynallur Police Station Madurai District**, reported in **2021 (12) SCC 1**, the Apex Court has held that:

> "It is well settled that a coordinate Bench cannot take a contrary view and in event there was any doubt, a coordinate Bench only can refer the matter for consideration by a Larger Bench. The judicial discipline ordains so. This

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Court in State of Punjab and another versus Devans Modern Breweries ltd. and another, (2004) 11 SCC 26, in paragraph 339 laid down following:-

> "**339.** Judicial discipline envisages that a coordinate Bench follow the decision of an earlier coordinate Bench. If a coordinate Bench does not agree with the principles of law enunciated by another Bench, the matter may be referred only to a Larger Bench. (See Pradip Chandra Parija Vs.Pramod Chandra Patnaik, (2002) 1 SCC 1 followed in Union of India Vs. Hansoli Devi,(2002) 7 SCC 273. But no decision can be arrived at contrary to or inconsistent with the law laid down by the coordinate Bench. Kalyani Stores (supra) and K.K. Narula (supra) both have been rendered by the Constitution Benches. The said decisions, therefore, cannot be thrown out for any purpose whatsoever; more so when both of them if applied collectively lead to a contrary decision proposed by the majority."

25. Ordinarily, this Court would not go into the merits of the case once the position of law is settled with regard to the controversy on a particular issue, but the difficulty before this Court is that which view has to be followed, more particularly when there are two different conflicting views on the same issue by the different Division Benches of this Court of equal strength. The Apex Court in the case of **Central Board Of Dawoodi Bohra Community and Ors. vs State Of Maharashtra & Anr** reported in **2005 (2) SCC 673** has held in para 12, which reads as under:

> "**12.**Having carefully considered the submissions made by the learned senior counsel for the parties and having examined the law laid down by the Constitution Benches in the above said decisions, we would like to sum up the legal position in the following terms :-
>
> (1) The law laid down by this Court in a decision delivered by a Bench of larger strength is binding on any subsequent Bench of lesser or co-equal strength.
> (2) A Bench of lesser quorum cannot doubt the correctness of the view of the law taken by a Bench of larger quorum. In case of doubt all that the Bench of lesser quorum can do is to invite the attention of the Chief Justice and request for the matter being placed for hearing before a Bench of larger quorum than the Bench whose decision has come up for consideration. It

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> will be open only for a Bench of coequal strength to express an opinion doubting the correctness of the view taken by the earlier Bench of co- equal strength, whereupon the matter may be placed for hearing before a Bench consisting of a quorum larger than the one which pronounced the decision laying down the law the correctness of which is doubted.
> (3) The above rules are subject to two exceptions: (i) The above said rules do not bind the discretion of the Chief Justice in whom vests the power of framing the roster and who can direct any particular matter to be placed for hearing before any particular Bench of any strength; and (ii) In spite of the rules laid down hereinabove, if the matter has already come up for hearing before a Bench of larger quorum and that Bench itself feels that the view of the law taken by a Bench of lesser quorum, which view is in doubt, needs correction or reconsideration then by way of exception (and not as a rule) and for reasons it may proceed to hear the case and examine the correctness of the previous decision in question dispensing with the need of a specific reference or the order of Chief Justice constituting the Bench and such listing. Such was the situation in Raghubir Singh & Ors. and Hansoli Devi & Ors.(supra).”

26. The Hon’ble Apex Court in the case of **S.K.Kapoor** (Supra) has held that if a subsequent co-ordinate Bench of equal strength wants to take a different view, then the matter should be referred to the Larger Bench. It has been held in para 9 as under:-

> “9. It may be noted that the decision in S.N.Narula case was prior to the decision in T.V.Patel case. It is well settled that if a subsequent co-ordinate Bench of equal strength wants to take a different view, it can only refer the matter to a larger bench, otherwise the prior decision of a co-ordinate Bench is binding on the subsequent bench of equal strength. Since, the decision in S.N.Narula case was not noticed in T.V.Patel case, the latter decision is a judgment per incuriam. The decision in S.N.Narula case was binding on the subsequent Bench of equal strength and hence, it could not take a contrary view, as is settled by a series of judgments of this Court.”

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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.

29. This Court accordingly refers this case to the Special/Larger Bench to answer the following question:

> "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) BNSS as a matter of right?"

30. Let the matter be placed before Hon'ble the Chief Justice on the administrative side for constitution of Special/Larger Bench to answer the aforesaid question, referred by this Court.

(ANOOP KUMAR DHAND),J

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