

White-Collar Crime & Corporate Investigations Monthly Newsletter

BHARATIYA NAGARIK SURAKSHA SANHITA

BAIL CANNOT BE GRANTED ON THE GROUND OF PARITY ALONE

The **Supreme Court** reiterated the settled principle of law that bail cannot be granted solely on the ground of parity with a co-accused. While allowing an appeal challenging an order granting bail, the Court observed that the role of the accused in the alleged offence is critical while determining a bail application. Bail cannot be granted solely on account of parity without considering the nature of allegations, circumstances involved, and materials placed on record. Different accused may have different degrees of involvement: one may merely be part of a group, another may instigate violence, and another may actually use a weapon. Parity therefore applies only where the roles are comparable. Relying upon *Brijmani Devi v. Pappu Kumar*, (2022) 4 SC 497, the Court held that while detailed reasons are not necessary while granting bail, the order must reflect application of mind having regard to the nature of allegations, severity of punishment etc., as well as relevant reasons for grant of bail.

[Sagar v. State of Uttar Pradesh and Anr.](#)

GRANTING INTERIM PROTECTION FROM ARREST WHILE DENYING TO QUASH THE FIR IS CONTRADICTIONARY

In a petition challenging the orders passed by the High Court of Allahabad rejecting the prayer for quashing of First Information Reports (“FIRs”) under Article 226 of the Constitution of India, the **Supreme Court** held that the High Court’s order was contradictory and unsustainable. Though the High Court refused to exercise its jurisdiction to quash the FIRs, it nevertheless granted blanket protection from arrest to the accused persons, causing serious prejudice to the

investigation. Relying on *Neeharika Infrastructure (P) Ltd. v. State of Maharashtra*, (2021) 19 SCC 401, the **Supreme Court** reiterated that, although the power under Article 226 is wide and encompassing, blanket interim orders directing “not to arrest” or “no coercive steps” till final report/chargesheet is filed or till investigation is completed cannot be granted mechanically or in a routine manner.

[Sanjay Kumar Gupta v. State of Uttar Pradesh & Ors.](#)

CRIMINAL REVISION PETITION FILED BY AN INFORMANT DOES NOT ABATE ON HIS DEATH

The **Supreme Court** held that a criminal revision filed by an informant under Section 397 r/w Section 401 of the Code of Criminal Procedure, 1973 (“CrPC”) does not abate on his death. Relying upon *Prabhan Kumar Mitra v. State of West Bengal & Anr.*, 1958 SCC Online SC 79, the Court held that revisional jurisdiction is a discretionary power exercised in the aid of justice. Where revision is at the instance of an informant, other persons who fall within the definition of “victim” under Section 2(wa) of CrPC may be permitted to assist the Court in determining the correctness of the order challenged, even though there is no statutory provision for substitution. Consequently, once rule is issued, the court has to determine the legality, correctness, and propriety of the order irrespective whether the informant revisionist is alive. The Court further clarified that the rule of locus does not apply to revisional proceedings where revision is not filed by an accused. When revision is filed by an accused, the proceedings may abate upon his death.

[Syed Shahnawaz Ali v. State of Madhya Pradesh](#)

NEGOTIABLE INSTRUMENTS ACT

COURT CANNOT EXERCISE POWER UNDER SECTION 482 OF CRPC BY CONDUCTING ENQUIRY INTO QUESTIONS OF FACT AT PRE-TRIAL STAGE

The **Supreme Court** held that the High Court erred in exercising its inherent power under Section 482 of the CrPC to quash a criminal complaint filed under Section 138 of the

Negotiable Instruments Act, 1881 (“NI Act”) by conducting a roving enquiry at pre-trial stage into whether the dishonoured cheque was issued for discharge of a debt or liability. The Court held that while considering a petition for quashing of a criminal complaint, the Court has to examine only whether the allegations in the complaint and the materials placed on record make out a *prima facie* case to

proceed against the accused. If a *prima facie* case is made out, the complaint cannot be quashed by appreciating the evidence/materials on record, which is to be done at the stage of trial. The Court emphasised that the presumption under Section 139 of the NI Act i.e. the holder of a cheque

received the cheque for discharge in whole or in part of any debt or other liability, operates in favour of the complainant and the same can be rebutted by evidence led in trial.

[M/s Sri Om Sales v. Abhay Kumar @ Abhay Patel & Anr.](#)

MISCELLANEOUS

SC GRANTS BAIL IN A UAPA CASE AFTER OBSERVING THAT THE ACCUSED HAD REMAINED IN PROLONGED CUSTODY WITHOUT A CHARGESHEET

The **Supreme Court** granted bail to an accused in a case involving allegations under the Unlawful Activities (Prevention) Act, 1967 (“UAPA”) emphasizing that his custody for nearly two years without filing of the chargesheet was unjustified and in the teeth of Section 43D(2)(a) of the UAPA. The Court further observed that a perusal of the chargesheet indicated that neither any incriminating material was recovered from the accused nor was there any direct allegation of the offence against him and that there was no prospect of an early conclusion of the trial. Against this background, the Court granted bail to the accused.

[Tonlong Konyak v. State of Assam](#)

BOMBAY HIGH COURT: QUASHING OF FIR AND CRIMINAL PROCEEDINGS MOVED TO SINGLE BENCH

The Bombay High Court has notified “The Bombay High Court (Appellate Side) (Third Amendment) Rules, 2025”, which came into force on January 1, 2026. The amended rules apply to all proceedings pending on the date of commencement as well as to proceedings instituted thereafter. One of the significant amendments introduced is that all applications for quashing of FIRs, Chargesheet, order directing investigation under Section 156(3) of the CrPC or Section 175(3) of the BNSS shall be heard and decided by a Single Judge Bench and not by a Division Bench. This is irrespective of whether such applications have been filed under Article 226 or read with Article 227 of the Constitution of India or under Section 482 of the CrPC/ Section 528 of the BNSS read with Article 226 or 227 of the Constitution.

[The Bombay High Court \(Appellate Side\) \(Third Amendment\) Rules, 2025](#)

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White-Collar Crime and Corporate Investigations Practice

We have a skilled team specialized in criminal law, corporate/ transactional law, Intellectual Property and technology law, with considerable experience in criminal defence and regulatory enforcement.

Our knowledge of the enforcement landscape and understanding of the approach employed by regulators and investigating agencies enables us to anticipate the litigation trajectory and take steps to avoid/mitigate liability where possible.

The WCC team also works closely with the larger litigation practice to combat the substantial civil litigation risks that often accompany criminal and regulatory issues.

Competencies

Our subject matter competencies include the following:

- Fraud and Business Crime
- Money Laundering and FEMA
- Anti-Bribery, Anti-Corruption, and Investigations
- Securities Fraud
- Data Protection and Cyber Security
- Licensing Control
- Sanctions

Agencies/Authorities

We have represented clients before the following agencies:

- Directorate of Enforcement (ED)
- Central Bureau of Investigations (CBI)
- Serious Fraud Investigation Office (SFIO)
- Crime Branch/ Economic Offence Wing (EOW)
- Police Cyber Units
- Adjudicating Authorities and Appellate Tribunals under PMLA
- State Adjudicating Authorities (appointed under the Information Technology Act, 2000)
- Securities and Exchange Board of India (SEBI)
- Reserve Bank of India (RBI)
- Directorate of Revenue Intelligence (DRI)

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