

News

Liquor scam: SC refuses to hear Bhupesh Baghel appeal against 'piecemeal probes' but would hear challenge to PMLA



Baghel had filed two challenges, one against key PMLA provisions and a second against 'piecemeal chargesheets' submitted by the police, which he said can defeat the right to default bail.

Bhupesh Baghel and Supreme Court

The Supreme Court on Monday refused to directly entertain a plea by former Chhattisgarh Chief Minister and Congress leader Bhupesh Baghel, challenging provisions in criminal law that he said enable 'piecemeal' investigation into the alleged Chhattisgarh liquor scam case, in which he is among the accused [Bhupesh Kumar Baghel v. Union Of India And Ors].

A Bench of Justices Surya Kant and Joymalya Bagchi observed that the objections highlighted by Baghel could be discussed first before the High Court or the trial court.

A related appeal was also filed by Bhupesh Baghel's son, Chaitanya Baghel, who had been arrested by the Enforcement Directorate (ED) in the case on July 18. He, too, was asked to seek the High Court first.

"For what purpose the High Court and special courts are there? These irregularities are occurring solely when there is some affluent person. If this would happen, then ordinary citizen and ordinary lawyer will have no space in this court (Supreme Court)," said the Bench today, while asking both father and son to air their grievances before the pertinent High Court first.

Justice Surya Kant and Justice Joymalya Bagchi
However, the Court accepted to consider a plea brought by Bhupesh Baghel challenging the constitutional validity of Sections 50 and 63 of the Prevention of Money Laundering Act, 2002 (PMLA).

This appeal pointed out that these laws authorize the ED to summon any person and force responses and the production of documents under a threat of penalty. These laws also compel the signing of statements recorded by individuals summoned, under a threat of penalty.

"The upshot is a chilling impact on the exercise of the fundamental right to quiet. The statutory necessity to sign one's own possibly damning declaration under threat of prosecution or arrest pushes persons to either sacrifice their constitutional rights or suffer penal consequence," the plea claimed.

In this plea, Baghel also urged the Court to declare that ED officers do not have the power to conduct "further investigation" after the filing of a chargesheet, unless there are exceptional circumstances and only with prior permission from a jurisdictional court and upon compliance with proper safeguards. The plea noted that the accused person's right to bail in the event of delay by the ED in finishing the inquiry must also be preserved in such a circumstance.

The Bench today agreed to list Baghel's challenge to Sections 50 and 63 on August 6 when another outstanding case on the legality of the PMLA is set to be heard.

Moreover, liberty was also allowed for Chaitanya Bhagel to submit a petition on this subject before the Supreme Court, while permitting him to withdraw his petition.

The petitions before the Court are connected to claims that a ₹2,000 crore liquor syndicate scam occurred in Chhattisgarh during the Chief Ministership of Bhupesh Baghel.

The ED has asserted that this organization collected unlawful commissions and marketed unaccounted liquor through government liquor shops.

Notably, on April 8, 2024, the Supreme Court quashed a previous money laundering case registered by the ED in the same matter after finding that there was no predicate offence (an underlying criminal case based on which ED cases can be registered if it is suspected that money was laundered as part of such a crime).

A day later, the ED opened a fresh money laundering case based on a predicate case registered by the Chhattisgarh police in January 2024.

Chaitanya Baghel, son of Bhupesh Baghel, was also among those who were suspected of involvement in the matter. He was arrested lately by the ED on July 18 on suspicions that he was involved in siphoning off money through real estate and other avenues.

In his plea, Bhupesh Baghel criticized the arrest and connected measures as being politically motivated.

Senior Advocates AM Singhvi, Kapil Sibal and Mukul Rohatgi appeared for Chaitanya Baghel and Bhupesh Baghel today.

Sibal stated that 'anybody can be picked up anytime' if investigation agencies, including the ED, are allowed to undertake piecemeal investigations and file chargesheets forever. He stated that such an approach would also violate the accused's right to default bail or bail given when there is a delay in finishing the probe.

The Court stated that the problem had less to do with the constitutionality of legislation allowing the filing of extra chargesheets and more to do with the abuse of such provisions.

"It's not a vires question. It's a question of abuse. We fully appreciate your concern. Powers being so plenary, there's always a potential of abuse and hounding innocent individuals," the Bench said.

It said that the law provides measures to prevent against the misuse of such authorities, and that disgruntled individuals can always approach courts on an individual basis if the investigation agency are found deviating from the law.

"If there is any deviation, please challenge that on an individual basis before the High Court," the Court added.

Sibal, however, pointed out that relevant questions concerning such powers of the ED is already pending consideration before the Court in the PMLA review case.

"Please keep this (petition concerning PMLA provisions) on that day," Sibal said.

"Alright. Post on 6th August," the Court replied.

However, the remaining petitions - which included a plea for guidelines to oversee the conduct of 'further investigations' under the Code of Criminal Procedure (CrPC)/ the Bharatiya Nagarik Suraksha Sanhita (BNSS) - were allowed to be withdrawn, since the top court opined that it is better that the issue be raised first before the concerned High Court.