Cassie

WEDNESDAY
28 OCTOBER 2026

DAILY

Court Digest

The day's most significant judgments from India's courts.

IN TODAY'S DIGEST

- S.43D(7) UAPA | Bail bar applies only to initial illegal entry : SC
- S.5(24)(m) IBC | Lender with governance veto excluded from CoC : SC
- S.74 Contract Act | Earnest money forfeiture requires loss : Delhi HC
- S.19 PMLA | Arrest barred while S.50 probe is pending : Bombay HC
- S.112 CGST Act | Stay on interest recovery if tax paid : Bombay HC

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Supreme Court

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Criminal Issues
UAPA, NSA, Preventive Detention, Sedition, etc.

SUPREME COURT

Section 43D(7) bail bar applies only to initial unauthorized entry, not visa expiry

The dispute. A Sri Lankan national accused under UAPA was granted default bail after investigative delays. The Union challenged the grant, contending subsequent visa expiry triggered the statutory bail prohibition under Section 43D(7). The High Court restored default bail; the Union appealed to the Supreme Court.

The reasoning. Section 43D(7) applies exclusively when the original entry into India was unauthorized. The non-obstante clause overrides standard bail provisions but leaves default bail under Section 43D(2) unimpaired.

For your practice. Defense counsel can resist UAPA bail bars where entry was lawful under valid documentation.

The order. The Supreme Court dismissed the Union's appeal, sustaining the restoration of default bail.

§ Section 43D, Unlawful Activities (Prevention) Act, 1967

UNION OF INDIA vs MOHAMED RIFAS @ MOHAMED RIGBAS

COURT	DECIDED	CASE NO.	CITATION
Supreme Court of India	27.10.2026	Crl.A. No.-005070-005070 - 2026	2026 INSC 1160

BENCH
Aravind Kumar, Vipul M. Pancholi

Contracts & Business Disputes
Breach, Disputes & Reliefs

SUPREME COURT

Lender participating in corporate governance is a related party excluded from CoC

The dispute. A debenture holder held nominee directorship with tie-breaking power, budget vetoes, and escrow controls over a real estate developer. Upon insolvency, the resolution professional treated the lender as an unrelated financial creditor. The NCLAT ordered the lender's exclusion from the CoC; the debenture holder appealed.

The reasoning. Participating in corporate policy-making under contract transforms a financial lender into a related party under Section 5(24)(m)(i) of the IBC. Such control disqualifies the creditor from voting in the CoC.

For your practice. Transaction lawyers must calibrate lender step-in covenants to avoid forfeiting CoC voting rights.

The order. The Supreme Court dismissed the appeals and affirmed the lender's exclusion from the CoC.

§ **Section 5(24)(m)(i), Insolvency and Bankruptcy Code, 2016**

ECL FINANCE LTD. vs ABHINAV MUKHERJEE

COURT	DECIDED	CASE NO.	CITATION
Supreme Court of India	27.10.2026	C.A. No.-006268 - 2022	2026 INSC 1159

BENCH
J.B. Pardiwala, K. Vinod Chandran

Government & Public Body Interactions

SUPREME COURT

Unpaid excise duty on bonded warehouse stock is not addable under Section 43B

The dispute. A sugar mill stored manufactured stock in bonded warehouses without debiting unpaid excise duty to its profit and loss account. The assessing officer added Rs 69.92 lakh under Section 43B read with Section 145A. The High Court reversed tribunal deletions; the assessee appealed to the Supreme Court.

The reasoning. Section 43B operates only where a deduction is claimed by the assessee. Because the goods remained inside bonded premises without clearance, no statutory duty liability arose to warrant any tax addition.

For your practice. Taxpayers using exclusive accounting need not pay excise duty on bonded inventory before clearance.

The order. The Supreme Court allowed the appeal and set aside the High Court's addition order.

§ Section 43B and Section 145A, Income Tax Act, 1961

LAKSHMI SUGAR MILLS CO. LTD. vs COMMISSIONER OF INCOME TAX DELHI II

COURT	DECIDED	CASE NO.	CITATION
Supreme Court of India	27.10.2026	C.A. No.-008932-008932 - 2013	2026 INSC 1162

BENCH

S.V.N. Bhatti, N.V. Anjaria

High Courts

5 judgments in this edition

KEEP SWIPING >>>

Contracts & Business Disputes
Breach, Disputes & Reliefs

DELHI HC

Forfeiture of earnest money under Section 74 requires proof of actual legal injury

The dispute. A buyer paid Rs 4 lakh earnest money under a property sale agreement but failed to tender the balance. The seller forfeited the entire earnest money without demonstrating actual financial loss. The trial court ordered a refund with interest; the seller appealed.

The reasoning. Section 74 of the Contract Act does not permit automatic forfeiture upon breach. Earnest money can be retained only where the vendor proves real loss, unless the amount represents a reasonable pre-estimate of damage.

For your practice. Defaulting purchasers can recover earnest money unless sellers plead and prove quantifiable market losses.

The order. The Delhi High Court dismissed the appeal and upheld the refund decree with 6% annual interest.

§ Section 74, Indian Contract Act, 1872

SOMNATH KHARBANDA (SINCE DECEASED) THROUGH HIS LRS & ors. vs ARVINDER KAUR (SINCE DECEASED) THROUGH HER LRS

COURT	DECIDED	CASE NO.	CITATION	BENCH
Delhi High Court	27.10.2026	RFA-814/2026	2026:DHC:9462	Neena Bansal Krishna

Criminal Issues
White Collar Crimes (Money laundering, Insider Trading, Financial Frauds, Tax Evasion, Foreign exchange, etc.)

BOMBAY HC

ED cannot arrest under Section 19 on identical material during pending Section 50 inquiry

The dispute. The petitioner appeared 38 times over 18 months in a remittance probe. While confrontation proceedings under Section 50 were actively pending pursuant to a court order, the agency arrested him without new material. The Special Court remanded the accused to custody; the petitioner challenged the arrest.

The reasoning. Once the agency invokes Section 50 and secures a judicial confrontation schedule, it cannot arrest under Section 19 on identical facts. Statutory belief of guilt requires objective, fresh material.

For your practice. Counsel can invalidate PMLA arrests executed on stale material while formal summons cooperation continues.

The order. The Bombay High Court declared the arrest illegal, quashed the remand orders, and directed immediate release.

§ Section 19, Prevention of Money Laundering Act, 2002

JITENDRA PANDEY S/O VIDYASHANKAR PANDEY vs DIRECTORATE OF ENFORCEMENT AND ANR

COURT	DECIDED	CASE NO.	CITATION	BENCH
Bombay High Court	27.10.2026	WP/3476/2026	2026:BHC-AS:43626	Milind N. Jadhav

Government & Public Body Interactions

BOMBAY HC

Section 112(9) automatically stays interest recovery when disputed tax is fully deposited

The dispute. An infrastructure contractor paid all assessed GST dues but contested an interest demand of Rs 22.12 crore before the tribunal. The department issued bank attachment notices under Section 79 to enforce recovery. The taxpayer filed a writ petition challenging the coercive garnishee attachments.

The reasoning. Section 112(8) of the CGST Act requires pre-deposit of tax, not interest, to perfect an appeal. Once the full tax is paid, Section 112(9) imposes an automatic statutory stay on the recovery of disputed interest.

For your practice. Taxpayers with paid principal can block coercive garnishee attachments on disputed interest without court intervention.

The order. The Bombay High Court allowed the writ petition and quashed the bank attachment notices.

§ Section 112, Central Goods and Services Tax Act, 2017

ROADWAY SOLUTIONS INDIA INFRA LTD vs THE STATE OF MAHARASHTRA & ors.

COURT	DECIDED	CASE NO.	CITATION
Bombay High Court	27.10.2026	WP/14038/2026	2026:BHC-AS:43662-DB

BENCH

Sandesh D. Patil

Criminal Issues
Summons and Warrants

DELHI HC

Section 82 proclamation requires evidence of deliberate evasion, not mere non-service

The dispute. The trial court declared an overseas accused a proclaimed offender based on unexecuted warrants at a former Indian residence. The prosecution possessed his foreign address but omitted formal international service. The accused petitioned under Section 482 CrPC to quash the proclamation order.

The reasoning. Issuing an absconder proclamation under Section 82 requires judicial satisfaction of deliberate concealment to evade arrest. Mere non-service at an obsolete address fails this threshold when overseas residence is known.

For your practice. Defense counsel can void fugitive proclamations where agencies neglect statutory cross-border summons channels.

The order. The Delhi High Court quashed the proclamation order for non-compliance with statutory conditions.

§ Section 82, Code of Criminal Procedure, 1973

RISHI LEVI vs CBI

COURT	DECIDED	CASE NO.	CITATION	BENCH
Delhi High Court	27.10.2026	W.P.(CRL)-3123/2026	2026:DHC:9494	Sanjeev Narula

Criminal Issues
Appeals, Revision and Pardons

DELHI HC

Dock identification of stranger without test identification parade has no evidentiary value

The dispute. The trial court convicted the appellant for robbery based on co-accused disclosures and a first-time courtroom identification by an injured witness without a preceding identification parade. The convict appealed to the High Court challenging the conviction.

The reasoning. First-time dock identification of an unfamiliar accused lacks probative value without a prior test identification parade. Confession statements yielding no physical recovery are inadmissible under Section 27.

For your practice. Lawyers must now demand TIP for stranger accused not named in FIR; co-accused disclosures without recovery are inadmissible; conspiracy requires proof of agreement, not conjecture. Changes how identification evidence is challenged at trial and appeal.

The order. Appeal allowed. Conviction dated 29.03.2012 and sentence dated 08.06.2012 set aside. Appellant Jiya Lal acquitted of all charges under Sections 394/395/307/120-B/34 IPC and Section 216-A IPC. Bail bond to remain valid for six weeks. Copies to trial court and Jail Superintendent for compliance.

§ Section 27, Indian Evidence Act, 1872

JIYA LAL vs STATE

COURT	DECIDED	CASE NO.	CITATION	BENCH
Delhi High Court	27.10.2026	CRL.A.-908/2012	2026:DHC:9455	Ravinder Dudeja

Tribunals

1 judgment in this edition

KEEP SWIPING →



Banking Law, Debt & Money Matters
Liability of Director, Partner, etc. towards Company/Partnership's Debt

NCLAT

NCLT can pierce corporate veil under Section 60(5) to recover unpaid acquisition dues

The dispute. Purchaser directors assumed complete operational control of a corporate debtor following a business purchase pact but withheld Rs 3 crore consideration. The liquidator sought recovery against the directors personally. The Adjudicating Authority held the directors jointly liable; the directors appealed.

The reasoning. Section 60(5) confers ample jurisdiction to lift the corporate veil when directors manipulate entity structures to siphon corporate debtor assets. Contractual payment conditions represent mechanics, not discharges.

For your practice. Insolvency liquidators can target controlling directors directly for unpaid asset purchase obligations.

The order. The NCLAT dismissed the appeal and sustained the personal recovery order against the directors.

§ **Section 60(5), Insolvency and Bankruptcy Code, 2016**

Mr. Subbarao Siddabattula & ors. vs Radhey Shyam Yadav Liquidator Of M/S ...

COURT
National Company Law Appellate Tribunal

DECIDED
27.10.2026

CASE NO.
Company Appeal (AT) (Ins.) No. 1549 of 2025

BENCH
Indevar Pandey

Also decided today

§ Section 31, Code of Criminal Procedure, 1973 SUPREME COURT

Life sentences in a single trial must be superimposed rather than consecutive

Life imprisonment extends until natural death. Under Section 31 CrPC, life sentences awarded in a single trial must be superimposed concurrently so remission on one count does not spill into the other.

Crl.A. No.-005072-005072 - 2026 · 2026 INSC 1161 · 27.10.2026

§ Section 32, Uttar Pradesh Urban Planning and Development Act, 1973; Section 5... ALLAHABAD HC

Repeated compounding of identical unauthorized building constructions is legally barred

Compounding bye-laws do not authorize successive condonations of identical construction violations. Repeated compounding infringes apartment owners' statutory common area rights under the UP Apartment Act.

WRIT - C No. - 21821 of 2025 · 27.10.2026

§ Article 162, Constitution of India JHARKHAND HC

Executive rules restricting counsel choice of statutory boards are void for vagueness

Rule 3(7) controlling autonomous corporation briefs suffered from incurable vagueness and arbitrary overreach. Executive rules under Article 162 cannot abrogate corporate autonomy or mandate sub-minimum stipends.

WPC/6148/2026 · 2026:JHHC:31402-DB · 27.10.2026

Also decided, continued

§ Order XXXVII, Code of Civil Procedure, 1908 — MADRAS HC

Summary suit procedure is mandatory and cannot be waived by concession on ex-parte recall

The procedure under Order 37 of the CPC is mandatory. A party's procedural concession on setting aside an ex-parte order does not waive the statutory requirement for the defendant to obtain formal leave to defend.

CRP.3412/2023 · 2026:MHC:4310 · 26.10.2026

§ Section 2(33), Juvenile Justice (Care and Protection of Children) Act, 2015 — ALLAHABAD HC

Offences under Section 467 IPC are serious but do not warrant juvenile transfer to adult court

Under Section 2(33) of the JJ Act, offences lacking a minimum seven-year sentence are classified as serious rather than heinous. Transfer under Section 18(3) for adult trial applies solely to heinous crimes.

CRIMINAL REVISION No. - 4845 of 2026 · 27.10.2026

§ Section 138, Negotiable Instruments Act, 1881 — RAJASTHAN HC

Guarantor security cheque is not automatically exempt from Section 138 prosecution

A cheque issued by a guarantor to secure debt is not per se excluded from the purview of Section 138 of the NI Act. Whether enforceable consideration existed at presentation is a question of fact for trial.

CRLMP / 4716 / 2023 · 2026:RJ-JD:52457 · 27.10.2026

Can a financial creditor negotiate governance protections in debt instruments without risking disqualification from the Committee of Creditors under Section 5(24)(m)(i) of the IBC?

15 judgments **4** Supreme Court **10** High Courts **1** Tribunal

Every judgment here, analysed in full.

The facts, the reasoning and the precedents each court engaged with.

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