AILET

Last Minute Revision for CLAT PG: Important Judgements for the Month of September- Part II

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Preparing for CLAT 2025 and looking for comprehensive resources? Read this post to go through Part II of the important judgements of September.

Even if a Person is Already in Custody in Another Case, the Supreme Court Can Grant Anticipatory Bail

- Case: Dhanraj Aswani v. Amar S. Mulchandani and Anr
- The Supreme Court received a criminal appeal that contested the High Court's decision on anticipatory bail for an accused person who had multiple cases pending under Sections 406, 409, 420, 465, 467, 468, and 471 read with Section 34 of the IPC.
- The legal issue at hand is whether a person already in custody in one case can apply for anticipatory bail in another case under Section 438 of the CrPC.
- The Supreme Court clarified that an accused could seek anticipatory bail for an offence, provided they are not already under arrest for that specific offense. The Court observed that Section 438 does not prevent an accused individual from requesting anticipatory bail in a separate case, regardless of their current detention for that case.
- The Supreme Court dismissed the objection, holding that the availability of anticipatory bail is independent of custody status in unrelated cases. The Court emphasized that Section 438 CrPC does not preclude applications for anticipatory bail in separate cases when custody pertains to a different offense.

The Enforcement Directorate Summons a Person under Section 50 of the PMLA, Who Must Appear in Person or Through an Authorised Agent: Supreme Court

- Case: Abhishek Banerjee & Anr v. Directorate of Enforcement
- The ED issued summons to certain district collectors in Tamil Nadu concerning a sand mining investigation. The High Court challenged the summons, resulting in a stay. The ED then approached the Supreme Court to overturn the High Court's decision.
- The Supreme Court outlined the legal requirement under Section 50(3) of the Prevention of Money Laundering Act (PMLA), mandating summoned individuals to appear as directed by the ED, either in person or through a designated representative. The Court clarified that Section 63(4) makes it a criminal offence to disobey such directions, and refusal to comply could lead to proceedings under Section 174 of the IPC.
- The Supreme Court affirmed the summons' validity, directing that individuals summoned under the PMLA must comply and present themselves in accordance with the ED's requirements, either personally or via an authorized agent, as per the PMLA's statutory guidelines.

The Bombay High Court Considers the Time of Arrest to be the Moment of Interception in Cases Where an Arrest Occurs After the Issuance of Look Out Circulars (LOCs): Bombay High Court

- Case:Hem Prabhakar Shah v. State of Maharashtra
- A habeas corpus petition was filed by Hem Prabhakar Shah, a Singaporean national detained at Ahmedabad airport under a Look Out Circular issued by Mumbai's Azad Nagar police. Hem Prabhakar Shah argued that the police procedurally mishandled his detention, intercepting him at 10 PM on August 13 but only officially arresting him after identity verification.
- The High Court ruled that the petitioner's detention constituted an arrest from the moment of interception, considering it a restraint on personal liberty. The Court stated that such detention, without timely judicial review, violated constitutional safeguards under Article 22, which mandates presenting the detainee before a magistrate within 24 hours.
- The Bombay High Court determined that Shah's detention constituted an illegal arrest due to the disregard of procedural requirements for timely judicial review. For procedural purposes, the Court held that LOC detentions constitute "arrest" and stressed the strict observance of constitutional and procedural safeguards.

The Delhi High Court Restrained the Italian Company Terre Primitive from Using the Mark ‘Amuleti’ Due to Potential Consumer Confusion with the Amul brand.

- Case: Gujarat Co-operative Milk Marketing Federation Ltd. & Anr. v. Terre Primitive and Ors
- Amul filed a trademark infringement suit against Terre Primitive, an Italian company, alleging that Terre’s use of the mark “Amuleti” for dairy products could mislead consumers into associating the product with Amul. Amul argued that the mark “Amuleti” was deceptively similar to their established trademark, “Amul.”
- The Delhi High Court recognized Amul’s well-established brand presence in India and noted that Terre’s “Amuleti” branding bore structural and visual resemblances that could create confusion among consumers. The Court held that Amul had established a prima facie case for infringement, justifying an injunction.
- The Delhi High Court issued an interim injunction restraining Terre Primitive from using “Amuleti” or any other mark closely resembling “Amul” across physical markets, e-commerce platforms, and social media channels. The Court affirmed that the balance of convenience and potential for irreparable harm weighed in favor of protecting Amul’s brand.

The Supreme Court Dismissed a Plea Seeking the Designation of Agra as a World Heritage Site, Noting Insufficient Legal Basis

- Case: A collection of petitions pertaining to the development activities around the Taj Mahal
- An application among multiple petitions regarding environmental clearances sought to declare Agra City a World Heritage Site. Petitioners argued that such a designation would promote conservation efforts for Agra’s cultural and historical assets.
- The Supreme Court questioned the legal framework for designating a city as a World Heritage Site, noting that UNESCO’s heritage recognition typically applies to specific landmarks or areas rather than entire cities. The Court expressed skepticism about the practical impact of such a designation on Agra’s cleanliness and conservation.
- The Supreme Court rejected the application, noting the lack of clear legal grounds for declaring an entire city a World Heritage Site. The Court emphasized the need for evidence-based justification and clarified that individual monuments or sites, rather than cities,

generally qualify for UNESCO designation.