Fugitive Economic Offenders Ordinance

Why in news?

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- The President recently promulgated the Fugitive Economic Offenders Ordinance.
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- Passage of Fugitive Economic Offenders Bill was delayed due to disruptions in the Parliament.
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- Click here to know more on the Bill.
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What are the key features?

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- The ordinance seeks to confiscate properties of economic offenders who have left the country to avoid facing criminal prosecution.
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- **Offender** - A fugitive economic offender is a person against whom an arrest warrant has been issued for committing offence like
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i. counterfeiting government stamps or currency, cheque dishonour for insufficiency of funds
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ii. money laundering
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iii. transactions defrauding creditors
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- A fugitive economic offender is one who has left the country to avoid facing prosecution, or refuses to return to face prosecution.
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- **Provisions** - The provisions of the ordinance will apply for economic offenders with following conditions:
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i. who refuse to return
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ii. persons against whom an arrest warrant has been issued for a scheduled offence
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iii. wilful bank loan defaulters with outstanding of over Rs.100 crore
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- It provides for confiscating assets even without a conviction.
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- It also provides for paying off lenders by selling off the fugitive's properties.
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- Such economic offenders will be tried under Prevention of Money Laundering Act (PMLA).
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What is the procedure?

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- **Application** - A director or deputy director, appointed under the PMLA, 2002, may file an application.
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- This is to declare a person as a fugitive economic offender.
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- It can be filed before a special court, designated under the 2002 Act.
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- It will contain the reasons to believe that an individual is a fugitive economic offender.

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- Besides, it will have information about
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i. the whereabouts of the offender
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ii. list of properties believed to be proceeds of a crime for which confiscation is sought
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iii. list of benami properties or foreign properties for which confiscation is sought
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iv. list of persons having an interest in these properties
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- **Court** - Upon receiving the application, the special court will issue a notice to the individual.
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- It requires the person to appear at a specified place within 6 weeks.
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- If the person appears at the specified place, the special court will terminate its proceedings under the provisions of the Bill.
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- **Property** - Property belonging to the offender may provisionally be attached without the prior permission of the special court.
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- This is, provided that an application is filed before the court within 30 days.
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- **Appeals** against the orders of the special court will lie before the high court.
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What are the concerns?

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- A series of instances with absconding offenders has pressurised the government to take immediate action.
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- They include liquor baron Vijay Mallya’s, IPL commissioner Lalit Modi, diamond merchants Nirav Modi and Mehul Choksi.

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- Government agencies have attached the diamond merchant duo’s assets in India.
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- But an American court has disallowed the sale of their assets in other jurisdictions.
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- It's because India is yet to pass a model law mooted by the UN for cross-border insolvency cases.
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- It is not clear whether this ordinance can make up for this shortfall.
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- The ordinance route reflects the urgency to react to recent offences.
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- But the government needs to present a coherent vision about its plans to bring back those fugitives who have already got away.
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- The government has to plug many more legal loopholes in the whole system.
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Source: The Hindu

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