



*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment reserved on: 27.02.2026

Judgment delivered on: 28.02.2026

+ CRL.M.C. 321/2026 & CRL.M.A. 1209/2026 & CRL.M.A. 5413/2026

ACHAL KUMAR JINDAL

.....Petitioner

versus

STATE NCT OF DELHI & ORS.

.....Respondents

+ CRL.M.C. 925/2026 & CRL.M.A. 3653/2026 & CRL.M.A. 3654/2026 & CRL.M.A. 3655/2026

ACHAL KUMAR JINDAL

.....Petitioner

versus

STATE NCT OF DELHI

.....Respondent

Advocates who appeared in this case:

For the Petitioner:

Mr. Mahesh Jethmalani, Sr. Advocate with Mr. Mohit Mathur, Sr. Advocate, Mr. Pramod Kumar Dubey, Sr. Advocate with Mr. Apoorv Agarwal, Mr. Ravi Sharma, Mr. Manav Goyal, Mr. Abhishek Jaiswal, Mr. Sanchit Agarwal, Ms. Amrita Sony, Ms. Manya Jaiswal, Mr. Anjani Kumar Rai, Mr. Vignesh, Mr. Satyam Sharma, Mr. Priyanshu Raj, Ms. Aparna Iyer, Mr. Gaurav Sarkar, Ms. Priya Singh, Ms. Khushi Arora and Mr. Rupraj Banerjee, Advocates.

For the Respondent:

Mr. Sanjay Jain, Sr. Advocate with Mr. Akhand



Pratap Singh, Mr. Nishank Tripathi, Ms. Harshita Sukhija, Ms. Rishika Agrawal and Ms. Priya Tyagi, Advocates.

Mr. Amol Sinha, ASC for the State.

Mr. Rajiv Nayyar, Sr. Advocate with Mr. Sidharth Luthra, Sr. Advocate, Mr. Sidhant Kumar, Mr. Om Batra, Mr. Vinayak Thakur, Advocates for respondent Nos.2 and 3.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

CRL.M.A.1209/2026 (stay) & CRL.M.A.5413/2026 (seeking interim protection) in CRL.M.C. 321/2026 AND CRL.M.C. 925/2026 (seeking recall of Non-Bailable Warrants)

1. Petitioner Achal Kumar Jindal, who seeks quashing of FIR No.0142/2025 registered at P.S. EOW for commission of offences under Sections 420/409/120B IPC, has filed the abovesaid two applications in CRL.M.C. 321/2026 whereby he seeks stay of on-going investigation in the abovesaid FIR and also interim protection from arrest. It would be worthwhile to mention that application seeking interim protection has been moved after the issuance of *non-bailable warrants (NBWs)* against him by the court concerned.

2. Additionally, feeling aggrieved by such issuance of *NBWs*, he has also filed a substantive petition i.e. Crl.M.C.925/2026 and seeks recalling of such warrants.

3. The limited scope of consideration, at the moment, is whether the petitioner has been able to make out any case, warranting stay of investigation in the abovesaid FIR and whether he is entitled to any interim protection and recalling of *NBWs*.



4. It will be appropriate to narrate, in brief, the allegations made in FIR in question which was registered on 24.10.2025.
5. The complainants are Mr. Suresh Agarwala and his wife Ms. Kanta Agarwala (respondent Nos.2 and 3 respectively), who are senior citizens. They have levelled allegations of misappropriation and siphoning off funds belonging to *Exclusive Capital Limited (ECL)* in which they hold 2,34,640 equity shares which aggregates to 10% of its issued share capital. In addition, they also claim to possess *Compulsory Convertible Preference Shares (CCPS)* worth Rs.175 crores, which they had obtained through *Evaans Holdings Private Ltd.*
6. ECL is a *Non-Banking Financial Company (NBFC)* and all the three accused, as named in the FIR, are having its control. Sh. S.P. Bagla is its Managing Director, Sh. Achal Jindal (applicant herein) is reportedly its Executive Director and Authorized Signatory whereas Sh. K.A. Johnson is Chief Finance Officer (CFO) of ECL and according to complainants, there are various illegal acts and omissions committed by all of them which has resulted in deprecation of investment made by them in ECL.
7. Mr. S.P. Bagla is known to complainants as their daughter is married to his nephew but taking undue advantage of family relations, he made false representations and cheated them of their hard-earned money. As per averments, there is systematic diversion of substantial funds, which has resulted in loss of ECL business and its shareholders value. Various such instances have been highlighted in the FIR and it has been alleged that by such illegal activities and siphoning off, the accused persons, themselves, have become the ultimate beneficiaries. They even created false documents with intent to cause damage to the creditors and shareholders.



8. FIR also mentions that complainants had, earlier, filed a Company Petition before the *National Company Law Tribunal, New Delhi (NCLT)*, *inter alia*, alleging *mismanagement and oppression* of ECL's operations by the accused and diverting funds from ECL's corpus and Observer, a Former Judge of this Court has already been appointed to inspect the financial accounts and documents of ECL. Such appointment was affirmed by Hon'ble Supreme Court, as is evident from order dated 02.12.2024 and even the Observer, upon inspecting the limited financial accounts and documents made available by the accused, confirmed about such unlawful transactions to siphon off the funds of ECL. Thus, according to complainants, the allegations made in the Complaint have been, independently, verified by *Observer*. Such FIR also talks about one previously registered FIR i.e. FIR No.89/2024 by the same complainants. It is, thus, claimed that action be taken against accused who have committed offences under Section 415/408/463/466/474/471 read with Section 120-B IPC.

9. Two accused i.e. Mr. S.P. Bagla and Sh. K.A. Johnson have already been arrested and are, already, in Judicial Custody.

10. The present petitions are by the third accused i.e. applicant herein.

11. Since, as per investigating agency, he did not respond to the repeated notices, it obtained NBWs against him and he continues to evade arrest.

12. Let me now take note of the arguments advanced by both the sides.

13. Sh. Mahesh Jethmalani, learned Senior Counsel for the petitioner submits that the registration of FIR is gross abuse of the process of law and is actuated by *mala fide*. His broad contentions are as under: -

(i) The registration of FIR is barred and proscribed as there was already one



FIR prior in time i.e. FIR No.89/2024 and, therefore, with respect to the same transaction and allegations, the second FIR could not have been registered. Referring to *Amitbhai Anilchandra Shah vs. Central Bureau of Investigation and Another*: (2013) 6 SCC 348, it is argued that after filing charge-sheet on the basis of first FIR, if the Investigating Agency comes into possession of further evidence or material, there is no requirement of registering a fresh FIR and instead, further investigation, with the leave of the Court, can always be carried out and further report, in terms of Section 173(8) Cr.P.C. can be forwarded but there is no requirement of lodging a second FIR as there cannot be fresh investigation on receipt of every subsequent information in respect of the same offence or incident or occurrence. Moreover, the FIR in question was registered on 24.10.2025 and it was for the alleged acts committed between 01.09.2022 to 30.06.2024, which fact also indicates that such second FIR was driven by malice as first FIR had already been lodged on 11.07.2024.

(ii) The dispute is, essentially, between the shareholders of ECL and its Management and is civil in nature. It has been engineered by complainants with intent to extort, harass and to gain leverage in the alleged on-going *oppression-and-mismanagement* and allied proceedings and thus, a matter of civil nature has been given a colour of criminality.

(iii) No specific overt act has been attributed to the petitioner and, therefore, also the registration of FIR is bad in law. Moreover, Director of a Company cannot be fastened with any criminality, without arraigning the concerned Company as an accused.

(iv) The registration of FIR for commission of offences under Section 420/409 IPC is not permissible as both the abovesaid penal sections are



mutually inconsistent and cannot co-exist.

(v) The crucial ingredients of both the abovesaid penal sections are, even otherwise, conspicuously missing. It is contended that in the case in hand, no offence stands revealed as there is no allegation that any amount had been received by the applicant and, therefore, there is no question of his committing either any act of misappropriation or of cheating.

(vi) The clever intent of the complainants is to, somehow, take complete control of ECL and FIR has been got filed after exhausting all civil remedies. There is no question of any depreciation in the value of share of ECL and even in relation to CCPS, if anyone can be said to be aggrieved, it would be *M/s Teesta Retail Pvt. Ltd.* But there is complaint from them. Moreover, there is nothing on record to suggest that entire consideration amount of Rs.175 crores had, actually, been paid by complainants to *M/s Teesta Retail Pvt. Ltd.* Moreover, even CCPS, redeemable after 20 years, have been procured, knowing fully well that these could not have been purchased.

14. While stressing that a civil matter has been given criminal colour, the details of previous matters have been stated.

15. Sh. Jethmalani submits that the complainants had, earlier, filed a *Company Petition* under Sections 241/242/244 of Companies Act, 2013, alleging *oppression-and-mismanagement* in ECL and therein also, similar averments had been made. In such petition, filed way back on 28.02.2024, they had, *inter alia*, sought relief of removal of all the three Directors of ECL. Such petition was allowed by learned *National Company Law Tribunal, New Delhi Bench (NCLT)* and *vide* order dated 15.05.2024, NCLT directed appointment of *Administrator* to manage the functions and



affairs of the above company. A former Judge of this Court was directed to be appointed as *Administrator*, with direction to take over all the functions of the Board. Said order was challenged by the applicant as well as his co-accused Mr. Satya Prakash Bagla and *National Company Law Appellate Tribunal, New Delhi Bench* (NCLAT), initially, directed *status-quo* to be maintained but, later, directed such former Judge of this Court to act as an *Observer*.

16. Such appeal is pending adjudication before NCLAT.

17. In the interregnum, *Evaan Holdings Private Limited*, from whom the complainants, as alleged, had obtained CCPS, filed a writ petition before this Court which was registered as W.P.(C) 9877/2024 in which also the similar allegations, as presented by the complainants before the learned NCLT, had been made. The learned Single Judge of this Court passed an interim order on 23.10.2024 and directed '*suspension of the Board of Directors*' with immediate effect and directed for constitution of '*Interim Committee of Administrators*'. Such order was challenged by Mr. S.P. Bagla by filing a *Letters Patent Appeal* and the learned Division Bench of this Court, *vide* order dated 12.02.2025, dismissed such LPA which resulted in filing of a petition i.e. SLP 453/2025 in Supreme Court and when such SLP was taken up by the Hon'ble Supreme Court, while issuing notice, several directions were passed, which are as under: -

"(i) There shall be stay of operation of the directions issued in the order dated 23.10.2024 passed by the learned single Judge in W.P.(C) No. 9877/2024, which supersedes the Board of Directors of Exclusive Capital Limited and appoints an Interim Committee of Administrators. For the time being and till the date of this order, the payments to be made to the ICA, as per the said order, shall be borne by the writ petitioner.



(ii) *The orders passed by the NCLAT in relation to the appointment of the Observer, including the directions and powers given to such Observer, shall, however, continue to operate.*

(iii) *Till the next date of hearing in the present special leave petition, we find it appropriate to direct that Exclusive Capital Limited shall continue with its day-to-day business activities. However, it shall not enter into any financial transaction exceeding ₹10,00,000/- (Rupees Ten Lakhs only) without prior notice to the Observer. If the Observer deems it appropriate, he may bring the details of such transaction to the notice of the NCLT, where proceedings under Section 242 of the Companies Act, 2013, are pending. The NCLT may, thereupon, pass appropriate orders.*

(iv) *The proceedings before the RBI, pursuant to its show-cause notice and in view of the liberty granted by this Court, vide order dated 17.02.2025, shall continue and appropriate orders shall be passed, preferably within a period of four weeks from today.*

(v) *The observations recorded in the order passed by the learned single Judge and in the impugned judgment will not influence the RBI when it takes a decision. The RBI shall also not be influenced by this order, granting stay. It shall take an independent decision on the merits of the matter and proceed in accordance with law.*

(vi) *Liberty is granted to the writ petitioner and the shareholders, who have moved the NCLT, to move an application before the NCLT/NCLAT seeking appropriate directions. If any such application is filed, the same will be considered and decided in accordance with law, without being influenced by the impugned judgment, including the order of the learned single Judge and the present order, granting stay.*

(vii) *The proceedings before the NCLT/NCLAT may continue. It will be equally open to the petitioner before us, who is the respondent before the NCLT and the petitioner before the NCLAT, to contest/pursue the proceedings.*

18. It is, thus, submitted that NCLAT is already seized of the entire matter and the matter being civil in nature, the registration of FIR is nothing but gross abuse of law. Relying on *Sri Ramdas Motor Transport Ltd. and Others vs. Tadi Adhinarayana Reddy and Others*: (1997) 5 SCC 446, it has



been argued that when affairs of the Company are already under investigation and the statutory remedies are adequately provided in *Companies Act*, there is no requirement of any further interference, by getting an FIR registered on identical facts.

19. Mr. Jethmalani, learned Senior Counsel also contends that though comprehensive arguments shall be advanced in the main substantive petition whereby they seek quashing of FIR, the abovesaid aspects are sufficient to stay the on-going investigation and to grant interim protection to the petitioner and to recall *NBWs*. He submits that there is no legal compulsion that any such accused has to, necessarily, file an application seeking anticipatory bail and in this regard, he, strongly, relies upon *Neeharika Infrastructure Private Limited v. State of Maharashtra:(2021) 19 SCC 401* and while referring to para 16 of said judgment, he contends that interim relief in a quashing petition would be permissible when there are allegations of abuse of process of law by converting a civil dispute into a criminal dispute with a view to pressurize the accused and interference would also be legitimate when the complaint itself, on the face of it, is barred by law. Relying on *Arnab Manoranjan Goswami vs. State of Maharashtra and Others: (2021) 2 SCC 427*, it has been argued that whenever any such petition seeking quashing of FIR is filed, it is to be considered whether *prima facie* the ingredients of the offence have been made out or not and High Court should not foreclose itself from exercise of power when a citizen has been, arbitrarily, deprived of his personal liberty in an excess of state power. It is also contended that though ECL is NBFC but there is no involvement of any public funds and moreover, complainants are not actual victims and, therefore, the registration of FIR is



bad in law.

20. Mr. Mohit Mathur, learned Senior Counsel has addressed arguments in CrI.M.C.925/2026 and while adopting the abovesaid submissions, he emphasizes that coercive process cannot be issued as a '*pressure tactic*' in disregard of personal liberty enshrined under Article 21 of Constitution of India. It is submitted that the learned Trial Court has not followed the spirit mandated and specified under Section 75 of *Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023* and the warrants could not have been issued without coming to specific conclusion, accompanied by reasons that such person, accused of a non-bailable offence, was evading arrest. It is stated that accused was already before this Court and while disregarding said fact, impugned order does not record any satisfaction that the petitioner is deliberately evading process of law and, therefore, the order is cryptic, mechanical and non-speaking. Relying upon *Arun Kumar Parihar vs. State (Govt. NCTD): 2021 SCC OnLine Del 2767* and *Sesa Goa Ltd. and Others vs. State of Maharashtra and Another (and connected petition): 2008 SCC OnLine Bom 1376*, it is argued if NBWs are found issued in a mechanical manner, these ought to be recalled. Referring to *Manish Kumar Munda vs. State of NCT of Delhi and Another: 2025 SCC OnLine Del 6740*, it is argued that to attract Section 406 IPC, it has to be shown that the beneficial interest in the property in respect of which the offence is alleged to have been committed, continues to vest in the person by whom the entrustment was made i.e. in same person and not the accused and status of the complainant, who is, virtually, outsider, cannot be equated with actually aggrieved person. Mr. Mathur also relies upon *Raghuvansh Dewanchand Bhasin v. State of Maharashtra, (2012) 9 SCC 791*.



21. All such contentions have been refuted.

22. Mr. Sanjay Jain, learned Senior Counsel representing respondent No.1/State and Mr. Siddharth Luthra, learned Senior Counsel for respondent Nos. 2 and 3 (complainant) contend that there is no merit either in the main substantive petition which seeks quashing of the FIR or in the applications under disposal and, therefore, the petitioner is not entitled to any relief. According to them, the petitioner and his co-accused have misappropriated and siphoned off the funds belonging to ECL and the fraud in question is a serious economic fraud, having enormous ramification and things would become clearer only when State gets an opportunity to have his custodial interrogation.

23. It is submitted that petitioner and his co-accused, in a very systematic and calculated manner, siphoned off the funds thereby, benefiting themselves. The loans, at reduced rates, were granted to the entities which were owned and controlled by them only and were disbursed without any corresponding security or interest. Luxury cars have been purchased at inflated prices from such entities and in relation to default in repayment by others, there is deliberate and conscious inaction which indicates their *mala fide* intention. It is argued that ECL had received Rs. 315 Crores upon issuance of *Optionally Convertible Debentures (OCD)* which were subsequently converted to CCPS and the proceeds thereof were to be utilized to meet ECL's working capital requirement but these were diverted and misappropriated. Highlighting that ECL is NBFC, the alleged acts of misappropriation and siphoning off become much more alarming.

24. Sh. Sanjay Jain, learned Senior Counsel for State submits that FIR, quite clearly, discloses all the ingredients to make out offences mentioned



therein and, there is no attempt to convert a civil dispute into criminal. It is also, vehemently, contended that despite due notice and the undertaking given by the learned Counsel for the petitioner before this Court, the petitioner has failed to participate in investigation and is absconding and it was in the abovesaid backdrop only that *non-bailable warrants* were issued against him. It is argued that when the petitioner had an efficacious remedy by filing appropriate application seeking anticipatory bail, the reliefs sought in the present petitions are not permissible, particularly, when no exceptional circumstance has been disclosed and his two accused are already in custody.

25. I have given anxious consideration to the rival contentions and perused the precedents cited at the Bar.

26. Admittedly, the petitioner herein has not filed any separate substantive petition seeking anticipatory bail.

27. Various orders passed by learned Predecessor Bench would indicate that objection was raised by the respondents on earlier occasions and it was argued that when such remedy is available, the stay on arrest cannot be sought by way invoking Section 482 Cr.P.C. (corresponding Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023). Fact, however, remains that such issue was not decided by the learned predecessor Bench and it continued to hear arguments.

28. When CrI.M.C. No.321/2026 was taken up by learned Predecessor Bench on 16.01.2026, the issue involved herein was referred in the order so that parties can come prepared for advancing arguments. The issue was when there is a provision of seeking relief of anticipatory bail, whether stay on arrest can be sought by invoking inherent powers under Section 482



Cr.P.C. The matter was thereafter taken up on 19.01.2026 but in view of Board position, the arguments could not be heard and when the matter was taken up on 03.02.2026, the learned Predecessor Bench was informed that order dated 15.01.2026 had been challenged by the petitioner by way of *Special Leave Petition* and the Hon'ble Supreme Court did not find any reason to interfere with the same. Learned counsel for the petitioners informed the Predecessor Bench that, in the meanwhile, EOW had already obtained *non-bailable warrants* against the petitioner and the petitioner, herein, had also filed a separate petition challenging issuance of such warrants and keeping in mind the fact that the question pertained to liberty of a person, the matter was directed to be listed next day. On 04.02.2026, though, the arguments could be heard in part only, the learned Predecessor Bench observed that in view of submissions advanced so far, the petitioner was at liberty to apply for anticipatory bail, irrespective of the pendency of these petitions. The matters were thereafter taken up by learned predecessor Bench on 05.02.2026, 06.02.2026, 10.02.2026 and 17.02.2026 and thereafter these were directed to be listed on 02.03.2026 for further arguments. However, in the interregnum, the petitioner, feeling aggrieved by the fact that interim relief was neither granted nor declined, knocked the doors of the Hon'ble Supreme Court and filed *Special Leave Petition* challenging order dated 17.02.2026 which order also reiterated that the petitioner had been, repeatedly, granted liberty to file anticipatory bail.

29. Admittedly, since there was no substantial order, either way, when such *Special Leave Petition* i.e. SLP CrI.No.3420-3421/2026 was taken up by Hon'ble Supreme Court, it disposed of the same, observing:-



“We are not inclined to entertain these special leave petitions filed against an adjournment order.

It is for the petitioner, Achal Kumar Jindal, to approach the learned Judge or the Hon'ble The Chief Justice of the High Court of Delhi in the event his case is not being taken up, despite the urgency therein being recorded in an earlier order passed by the High Court.

The special leave petitions are, accordingly, dismissed.

Pending application(s), if any, shall stand disposed of.”

30. On the basis of the urgent mentioning made before Hon'ble the Chief Justice of this Court, the petitions were transferred to this Court on 26.02.2026.

31. It was in the abovesaid backdrop that these petitions were heard at length on 26.02.2026 and 27.02.2026 in relation to the abovesaid applications.

32. Right here, it also needs to be mentioned that when Crl.M.C. No.321/2026 was taken up by learned Predecessor Bench on 15.01.2026, learned Senior Counsel for petitioners, on instructions, assured that the petitioner would join the investigation as and when directed in writing by the IO. Fact remains that despite requisite written intimation in this regard, the petitioner has not come forward and has not joined the investigation.

33. Admittedly, prior to 15.01.2026, two notices were issued to him under Section 35(3) of the *Bharatiya Nagarik Suraksha Sanhita* (BNSS), 2023 (corresponding Section 41-A Cr.P.C.) but the petitioner did not respond and continued to remain inaccessible. Even after abovesaid undertaking and assurance given on 15.01.2026, when a notice for appearance was issued to him on 17.01.2026, as per prosecution, despite receipt of notice and abovesaid assurance and undertaking, he failed to join investigation and it is in the abovesaid backdrop that the State was left with no option but to obtain coercive process against him and in view of the



above peculiar backdrop, no fault can be found in the issuance of *non-bailable warrants*.

34. Since the interim relief is being sought in a petition which seeks quashing of FIR, it will be worthwhile to make reference to *Neeharika Infrastructure Private Limited v. State of Maharashtra*:(2021) 19 SCC 401, wherein the Hon'ble Supreme Court has, in no uncertain terms, observed that save in exceptional cases of miscarriage of justice, the Court should not interfere at the stage of investigation, while also holding that criminal proceedings ought not to be scuttled at initial stage. It observed that Police must be permitted to complete investigation, and interference might be permissible where no cognizable offence or offence of any kind was disclosed in the FIR. It was also observed that any interim order staying investigation or grant of any further relief should not be passed in a '*routine, casual or mechanical manner*' for the reason that when investigation is in progress, the facts are hazy and the entire evidence and material is not before the Court and, therefore, the Court should refrain itself from passing interim order of not to arrest or "*no coercive steps to be adopted*" and the accused should be relegated to apply for anticipatory bail before the Competent Court. Thus, petitioner is entitled to interim relief only where he has been able to make out an exceptional case of miscarriage of justice and is also able to disclose that FIR does not reveal commission of any offence.

35. It would be useful to refer to *Siddharth Mukesh Bhandari vs. State of Gujarat*: (2022) 10 SCC 525, where the principles laid down in *Neeharika Infrastructure* have been reiterated by the Hon'ble Supreme Court while observing that any such exercise of power is permissible only in the *rarest*



of rare cases. Para 10 of the abovesaid judgment reads as under:-

“10. What is emphasised by this Court in Neeharika Infrastructure is that grant of any stay of investigation and/or any interim relief while exercising powers under Section 482 CrPC would be only in the rarest of rare cases. This Court has also emphasised the right of the investigating officer to investigate the criminal proceedings. In our earlier judgment and order, in fact, we abstracted the principles laid down by this Court in Neeharika Infrastructure in para 5 in of Siddharth case.”

36. As already noted, the learned Predecessor Bench had, though, given liberty to the petitioner to take recourse to Section 438 Cr.P.C. of anticipatory bail, fact remains that the issue whether such kind of relief viz stopping of investigation and issuance of “no-coercive process” till the time quashing is decided, was left open and was not adjudicated, either way, *albeit*, liberty, time and again was granted to petitioner to file application for anticipatory bail.

37. *Neeharika Infrastructure* is loud and clear on the abovesaid aspect and the conclusions given by the Hon’ble Supreme Court in para 33 of the abovesaid judgment specify that except for cases where any non-interference might result in miscarriage of justice, there should not be any interjection at the stage of investigation of offences. It also lays down that it would be permissible for the Court to not permit an investigation to go on where no cognizable offence was made out, while supplementing that such powers under Section 482 Cr.P.C, though very wide but conferment of such wide powers also requires the Court to be more cautious and casts an onerous and more diligent duty on the Court. The abovesaid principles were reiterated in *Siddharth Mukesh Bhandari* while observing that such exercise of power would be only in the *rarest of rare cases*.

38. The situation is, thus, quite clear.



39. As a rule, the Court should not interfere with the on-going investigation while seized of any such petition which seeks quashing of FIR. The Court may interject only when the accused is able to disclose that there is gross abuse of process of law and no cognizable offence stands revealed.

40. A caveat, right here.

41. In-depth analysis of averments appearing in FIR is not required as the matter is pending investigation. The FIR is, as often said, not an encyclopaedia and, therefore, investigation should not be stopped abruptly, unless there is exceptional compelling reason. Who knows, even after culmination of investigation, in a given case, police may, eventually, file a closure report, saying no offence was made out. Thus, at such initial stage when FIR has been registered very recently i.e. on 24.10.2025, this Court would merely analyze and evaluate the allegations made in the FIR, without going into comprehensive and in-depth analysis. It would be in the nature of *surface-level-analysis*, just to satisfy itself whether cognizable offences are made out or not.

42. A perusal of the FIR in question would indicate that there are serious imputations with respect to irregularities and siphoning off the funds, with specific instances. Merely because at an earlier occasion, a petition under Section 241 and 242 read with Section 244 of *Companies Act* was filed would not, *ipso facto*, mean that the respondent Nos. 2 and 3 are barred from initiating any criminal action.

43. The ambit and sphere of the abovesaid petition, cannot be equated or confused with the scope of investigation, which is much wider. Moreover, it is quite obvious that as per order passed by NCLT, a case of *oppression*



and mismanagement was, actually, found made out and, therefore, the *Board of Directors* of ECL was suspended and there was direction for appointment of *Administrator*. The appeal is pending adjudication before the NCLAT and even as per order dated 12.02.2025 of the Hon'ble Supreme Court, the order passed by NCLAT, in relation to appointment of the Observer, including the directions and powers given to such Observer, have been directed to continue to operate, with further condition that ECL shall though continue with its day-to-day business activities, it shall not enter into financial transaction exceeding Rs. 10,00,000/-, without prior notice to the Observer.

44. Mr. Sanjay Jain and Mr. Siddharth Luthra, learned Senior Counsel draw attention to the fact that the *Observer* did notice violation of the abovesaid condition which indicates the *mala fide* intention of the petitioner whose actions, despite abvoesaid specific directions, remain unabated.

45. Admittedly, earlier also there was an FIR which was registered on the basis of complaint received from the same complainants. It was registered by EOW on 11.07.2024 and was given number as FIR No. 89/2024. In the abovesaid complaint, Mr. S P Bagla was, specifically, named and there were allegations against him of cheating and misappropriation, which he had committed with the help of other known and un-known persons. In the abovesaid FIR, there are allegations of misappropriation of 62.05 crores. A careful surface-level analysis of averments appearing in both FIRs would divulge that there is complete misconception in the mind of the petitioner that the allegations in both such FIRs are common and based on same transaction. First FIR is directed against Mr. Satya Prakash Bagla in his individual capacity, who was



entrusted with Rs.62.05 crores for purchasing a property in *Friends Colony*. Such entrustment was made on his representation that he would develop a property and sell it for huge profit. Such amount was neither returned nor title deeds were handed over. Thus, the scope and ambit of the investigation of first FIR is limited to the abovesaid entrustment of 62.05 crores, which had been given for a specific purpose i.e. for purchasing property. Whereas, the allegations in the second FIR are totally different and, clearly, spell out multiple instances of misappropriation by all the Directors of ECL, who diverted the money for their personal gains.

46. In *Amitbhai Anilchandra Shah* (supra), the situation was different as first FIR was in respect of *two encounters killings* and the second FIR was filed for *third encounter* and it was in the abovesaid peculiar backdrop that the Hon'ble Supreme Court held that filing of second FIR and fresh charge-sheet was violative of fundamental rights under Article 14, 20 and 21 of Constitution of India, since the same related to the alleged offence in respect of which an FIR had already been filed and the Court had taken cognizance. Herein, the Court has not taken any cognizance based on first FIR and, moreover, while quashing second FIR, the Hon'ble Supreme Court also went on to hold that the charge-sheet filed in pursuance of the Second FIR be treated as a supplementary charge-sheet in the first FIR. In view of the aforesaid, no real benefit can be dug out from the abovesaid judgment. Moreover, as noted, the broad allegations, in the two FIRs herein, are of different nature and have no nexus and connection, except for the fact that there is commonality of complainants and one accused.

47. No real benefit can be dug out from *Arun Kumar Parihar* as in that case, non-bailable warrants were, primarily, recalled as the status report



submitted by the investigating agency indicated that petitioner had joined the investigation and was not absconding. The warrants had been issued in said case, merely, for the reason that according to the investigating agency, accused had not given requisite desired answers. While holding that accused was entitled to right to silence to prevent self-incrimination, the NBWs were recalled. Herein, the situation is not akin as petitioner has not even bothered to join investigation, despite giving assurance before this Court. In *Raghuvansh Dewanchand Bhasin v. State of Maharashtra*, (2012) 9 SCC 791, on the basis of a complaint filed by complainant, the concerned accused was found absent on the date of hearing and, therefore, *non-bailable warrants* were issued against him. Despite cancellation of such *non-bailable warrants* on a subsequent date by the same court, the accused was arrested as he could not produce any proof regarding cancellation of such warrants. It was in the aforesaid premise that certain directions were issued with respect to issuance of *non-bailable warrants*. No such situation exists herein.

48. Thus, in view of my foregoing discussion and after giving thoughtful consideration to the rival contentions and on careful perusal of the precedents relied upon by the respective sides, it becomes obvious that the scope of two FIRs is totally diverse and different and, therefore, merely because there is already an FIR would not mean that the registration of second FIR was not permissible or that its registration was actuated by any malice. The contents of second FIR i.e. FIR No. 0142/2025 reveal, *prima facie*, commission of offences. Merely, because a company petition was earlier filed and *M/s Evaans Holding Pvt. Ltd.* had also filed a writ petition, would not carry any significance as no parallel can be drawn between those



proceedings and ongoing investigation in the present FIR. Such investigation would be much more broader and there does not seem to be any prohibition in taking recourse to initiation of criminal action.

49. Concept of *locus standi* is alien to criminal jurisprudence and anyone can set criminal machinery in motion whereas in the case in hand, the complainants are not outsiders or rank-outsiders. They rather have a stake in the Company, having 10% of the shareholding. Being Directors, they also, clearly, enjoy dominion over the funds of ECL and, therefore, Sections 406 and 420 are, manifestly, attracted. Question whether these Sections can co-exist or not, is better left for learned Trial Court for due consideration when charges are required to be ascertained. Moreover, fact remains that charges, in alternate, can, also, be framed.

50. Merely because police custody of one co-accused Sh. S.P. Bagla was declined, would not earn any automatic reprieve for the petitioner herein who has declined to join investigation, despite specific undertaking.

51. Consequently, both the aforesaid applications i.e. CrI. M.A. No. 1209/2026 and CrI. M.A. No. 5413/2026 in CrI. M.C. No. 321/2026 stand dismissed.

52. CrI. M.C. No. 925/2026 also stands dismissed.

53. CrI. M.C. No. 321/2026 be listed on 27.04.2026.

54. Both the sides shall file brief synopsis, after exchanging the same between them in advance.

(MANOJ JAIN)
JUDGE

FEBRUARY 28, 2026
st/sw/dr/pb