



2026:AHC:167770-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 14587 of 2026

Shri O.K. Singh

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Kamlendra Pal Singh, Raghuvansh Misra
Counsel for Respondent(s)	:	G.A.

Court No. - 49

HON'BLE AJAY BHANOT, J.

HON'BLE DIVESH CHANDRA SAMANT, J.

Sri G.S. Chaturvedi, learned Senior Counsel, assisted by Sri Raghuvansh Mishra, counsel for the petitioner submits that the petitioner is a retired government servant. The company which had entered into an agreement with the State Government defaulted in payment of its dues. The disputed letter is in consonance with the entries made in the revenue records which attest the status of the petitioner as bhumidhar with transferable rights. The petitioner did not commit any act of defrauding the State Government. The record does not disclose that the bank was misled into releasing the loan amount on the foot of the document executed by the petitioner. The allegations in the FIR are false. The FIR is liable to be quashed.

Sri Anoop Trivedi, learned Additional Advocate General, assisted by Sri Paritosh Kumar Malviya, learned AGA-I submits that an agreement was entered into between the Himvat Power Private Limited and the State Government on 28.06.2011. The

agreement placed various restrictions on the title and use of the land by the said company. The relevant covenant of the contract is extracted hereunder:

"(8) The the Second Party shall not transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise except with the previous sanction of the State Government."

The petitioner was a government official who issued a letter to the company on 07.05.2013 in the teeth of the aforesaid clause. The said communication recorded that the said company became a bhumidhar with transferable rights.

According to learned Additional Advocate General, the aforesaid act on the part of the petitioner amounted to fraud as it altered the status of ownership of the land in dispute for third parties who were not privy to the agreement between the State and the company. The other aspects regarding collusion of the petitioner with the officials of the company and other accused persons to mislead the banks and other parties regarding the status of the ownership are subject matters of the investigation. Furthermore, the veracity of the entries in the revenue record which depict the ownership of the company over the disputed parcel of land being in the teeth of the agreement entered into on behalf of the State are also being investigated.

Learned Additional Advocate General contends that the FIR and the materials in the record prima facie disclose commission of cognizable offences which warrant a thorough investigation. The

investigation is on foot. Staying the arrest of petitioner at this stage would impede the investigation, cause loss or disappearance of evidence and would be in the teeth of the law laid down by the Supreme Court in ***State of Haryana v. Bhajan Lal*** reported at ***1992 Supp (1) SCC 335*** and ***Neeharika Infrastructure Private Limited Vs. State of Maharashtra and others*** reported at ***(2021) 19 SCC 401***.

In ***Bhajan Lal*** (Supra) the Supreme Court held as under:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint

and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice."

The Supreme Court in *Neeharika* (supra) expounded the law as under:

"33.16. The aforesaid parameters would be applicable and/or the aforesaid

aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under Section 482CrPC and/or under Article 226 of the Constitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or "no coercive steps to be adopted" and the accused should be relegated to apply for anticipatory bail under Section 438CrPC before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and/or "no coercive steps" either during the investigation or till the investigation is completed and/or till the final report/charge-sheet is filed under Section 173CrPC, while dismissing/disposing of the quashing petition under Section 482CrPC and/or under Article 226 of the Constitution of India."

The judgments rendered by the Supreme Court in ***Bhajan Lal*** (supra) and ***Neeharika Infrastructure*** (supra) are squarely applicable to the facts of this case and dissuade us from granting any interim protection to the petitioner.

The relief sought for quashing of the F.I.R. is also accordingly declined for the same reasons.

The writ petition is dismissed.

(Divesh Chandra Samant,J.) (Ajay Bhanot,J.)

August 11, 2026

ADY