

Form No. J.(2)
Item No. DL/6
adeb - AR (CT)
Ct. No. 05

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Before:
THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

W.P.A. 25644 of 2026

Krishna Kumar Tiwari
Vs.
The State of West Bengal & Ors.

For the Petitioner	:	Mr. Sanjay Banerjee Mr. Joydeep Bhattacharjee
For the State	:	Mr. Raj Mohan Chattoraj Ms. Shikha P. Chowdhury
For the respondent no, 4	:	Mr. Ayan Bhattacharya Mr. Rajib Mullick Mr. Rajib Chatterjee Ms. Sonia Mukherjee

Hearing concluded on : 05.10.2026

Judgment on: : 05.10.2026

SAUGATA BHATTACHARYYA, J:

1. Affidavit of service filed on behalf of petitioner is taken on record.
2. By presenting this writ petition propriety of FIR being Electronics Complex Police Station Case No. 262 of 2026 dated 27th July, 2026 is questioned by the petitioner.

3. Mr. Banerjee, learned advocate representing petitioner submits that in terms of liberty granted by this Court vide order dated 9th September, 2026 passed on a writ petition being WPA 22484 of 2026 present writ petition is filed by one of the Directors of a company namely M/s. Urban Infra Nirman Private Limited. It is submitted in reference to complaint dated 27th July, 2026 of respondent no. 4 that alleged incident of parting with Rs. 2,17,00,000/- by the complainant in favour of M/s. Mayapur Commercial Private Limited took place in 2009 when present petitioner was not the Director of M/s. Urban Infra Nirman Private Limited. It is further submitted that rollover agreement made between M/s. Mayapur Commercial Private Limited and M/s. Urban Infra Nirman Private Limited in 2011. Therefore, according to petitioner at the material point of time when the aforesaid sum was parted with by the complainant petitioner was no way connected to the alleged incident of granting loan and failure to repay the same.
4. In addition thereto, reliance is placed on the order passed by a coordinate bench on 1st September, 2026 on Criminal Revisional Application being CRR 3517 of 2026 (Ayush Goenka vs. The State of West Bengal & Anr.) wherein petitioner therein was granted interim protection. It is further contended that impugned FIR is second FIR which is not maintainable and as such it is a fit case for interdiction of criminal proceeding initiated based on impugned FIR.

5. State respondents and respondent no. 4 are represented by learned advocates who have opposed this writ petition.
6. Mr. Bhattacharya, learned senior advocate representing respondent no. 4 has placed reliance on complaint dated 27th July, 2026 and it is contended that complaint was lodged complaining incident of 2019.
7. Order dated 1st September, 2026 of coordinate bench was passed on criminal revisional application being CRR 3517 of 2026 on the premise that FIR was registered in 2026 whereas petitioner in that revisional application became Director of Company in 2018 and on *prima facie* consideration that petitioner was never party to the original transaction which took place in 2009. It is argued strenuously on behalf of petitioner that petitioner became Director of M/s. Urban Infra Nirman Private Limited in 2013. Therefore, interim order passed by the coordinate bench on 1st September, 2026 may be relevant consideration while entertaining prayer for interim protection made in the present writ petition; complaint dated 27th July, 2026 of respondent no. 4 contains allegations pertaining to 2019 thereby stating therein deep rooted criminal conspiracy continued along with modus operandi of inducement, dishonest and fraudulent activities for misappropriation of the said amount of the complainant on different pleas. It needs to be recorded herein that consideration of contents of complaint dated 27th July, 2026 is only

restricted to the exercise whether this Court will entertain writ petition or not and not beyond that. Since investigation is continuing which is at its nascent stage Court is not making any finding with regard to veracity of allegations contained in complaint dated 27th July, 2026.

8. In this regard reliance is placed on the judgment of Hon'ble Supreme Court reported in **(2021) 19 SCC 401 (Neeharika Infrastructure Private Limited vs. State of Maharashtra and Others)**. Paragraph 33.16 of **Neeharika Infrastructure** (supra) runs *infra*:-

“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 482 CrPC 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 438 CrPC 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 173 CrPC, while dismissing/disposing of the

quashing petition under Section 482 CrPC and/or under Article 226 of the Constitution of India.”

9. It was succinctly decided in ***Neeharika Infrastructure*** (*supra*) that High Court while exercising writ jurisdiction under Article 226 of the Constitution of India needs to exercise its power in deciding a writ petition seeking quashment of criminal proceeding sparingly and with circumspection. It is not a routine procedure to pass order thereby granting protection to petitioner or issue a mandamus declaring criminal proceeding void.
10. Moreover, petitioner has an alternative remedy to approach appropriate forum under Section 482 BNSS, 2023 seeking pre-arrest bail.
11. In aforesaid conspectus Court is not inclined to interfere with this writ petition and same stands dismissed.
12. However, this order shall not preclude the petitioner to take steps in accordance with law and to move pre-arrest bail application before the appropriate forum.
13. Parties to act on server copy of this order duly downloaded from the official website of this Court.

(SAUGATA BHATTACHARYYA, J.)