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

BAIL APPL. NO. 2224/2026

Date of Decision**: 24.08.2026**

IN THE MATTER OF:

ACHAL KUMAR JINDAL
R/O 1602 TOWER 6,
LOTUS 300, SECTOR-107,
NOIDA-201301

.....PETITIONER

(Through: Mr. Zoheb Hossain, Sr. Adv with Mr. Sanjay Abbott, Mr. Arjun Dewan, Mr. Aryan Deol, Mr. Kartik Sharma, Mr. Yuvraj Gogia, Advocates.)

versus

1. **STATE (NCT OF DELHI)**
   THROUGH SHO POLICE STATION
   ECONOMIC OFFENCES WING,
   MANDIR MARG, DELHI

2. **SURESH KUMAR AGARWALA**
   R/O 8A, QUEENS PARK,
   BALLYGUNGE, KOLKATA-700019

3. **KANTA AGARWALA**
   R/O 8A, QUEENS PARK,
   BALLYGUNGE, KOLKATA-700019

.....RESPONDENTS

(Through: Mr. Sanjay Jain, Sr. Adv. with Mr. Akhand Pratap Singh, SPP along with Mr. Krishna Mohan, Mr. Nishank Tripathi and Ms. Rishika Agrawal, Advs. for R-1.

Mr. Sidhant Kumar, Mr. Om Batra, Mr. Parth Yadav and Ms. Devika Mohan, Advs. for R-2 and 3.)

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J.

1. By way of the instant application, the applicant seeks grant of regular bail in connection with FIR No.142/2025 registered at PS Economic Offences Wing (South), Delhi for offences punishable under Sections 420/409/468/471/477A/120B of the Indian Penal Code, 1860 ('**IPC**').

I. Facts

2. The facts of the case would indicate that on the complaint of Mr. Satish Kumar Aggarwal and Ms. Kanta Agarwal ("**Complainants**") alleging criminal breach of trust, cheating, criminal conspiracy, misappropriation and diversion of funds of the Non-Banking Financial Corporation ('**NBFC**') M/s Exclusive Capital Ltd. ("**ECL**"), *inter alia*, through related party transactions and fabricated documents, the subject FIR came to be registered against the Directors/Key Managerial Persons of M/s ECL including against the accused Satya Prakash Bagla, Johnson KA @ Kallarachal, and the present applicant.

3. It is alleged against all accused persons that they being under a fiduciary duty to utilize ECL's funds for the benefit of the company and the shareholders, in breach of their responsibilities as trustees, siphoned off and diverted funds of

investors and creditors. The said diversion included funds raised from third parties/investors to the tune of Rs.315 Crores, as debt, for expanding operations of M/s ECL and increasing shareholder value.

II. Submissions of the Applicant

4. Mr. Zoheb Hossain, learned senior counsel appearing for the applicant submits that the applicant is innocent and has been falsely implicated. The applicant is holding one equity share representing 0.00004% shares in ECL having no dominance or control over the company's affairs. Even otherwise, according to him, there is no bar in law to extend loans even to related parties if the company, in the ordinary course of its business, provides loans. Reference is made to Section 185(3)(b) of the Companies Act, 2013 ("**CA, 2013**").

5. With respect to extending loans to related entities, it is contended that all loans have been repaid, except one for which arbitration is pending. Mr. Hossain submits that he did not personally benefit from the alleged wrong-doing. He further submits that the alleged misappropriation by extending loans took place prior to the complainants becoming shareholders on 05.09.2022 and prior to their purchase of the Compulsorily Convertible Preference Shares ('**CCPS**') in March 2024, thus, no case is made out of criminal breach of trust.

6. It is also contended that the ECL being an NBFC is not a bank as per Section 5(b) of the Banking Regulation Act, 1949 ("**BR Act**") as it does not accept any public deposits, therefore, Section 409 of the IPC cannot be attracted. It is also contended that the applicant has suffered about 3 months

incarceration, the investigation is complete and the charge sheet has been filed. Only one day's police custody was allowed by the Magistrate. Since, thereafter, the applicant is in judicial custody and no further interrogation by the Investigating Agency is required.

7. Mr. Hossain has also explained the conduct of the applicant to overcome the findings rendered by this Court in earlier round of litigations, both before this Court in ***Achal Kumar Jindal v. State of NCT of Delhi***,[1] where the applicant had challenged the issuance of Non-Bailable Warrants, and sought a stay of the then on-going investigation as also interim protection from arrest; and before the Supreme Court in ***Achal Kumar Jindal v. The State of NCT of Delhi and Ors.***[2] It is his case that the Supreme Court while affirming the order of this Court clarified that the order would not adversely impact the merit of applicant's petition under Section 482 of the CrPC, which is pending for final adjudication and the observations made were only for the purpose of adjudicating the issue relating to the interim order. It is, thus, submitted that the applicant had never evaded the prosecution investigation and has always remained co-operative except to the extent of availing remedies available in law.

III. Submissions by the Respondents

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[1] Common judgement dated 28.02.2026 in Crl. MC 321/2026 and Crl. MC 925/2026, "***AKJ (HC)***"

[2] SLP (Crl.) No. 4249-4252/2026, order dt. 17.03.2026, "***AKJ (SC)***"

8. Submissions made on behalf of the applicant are vehemently opposed by Mr. Sanjay Jain, learned senior counsel appearing on behalf of EoW and by Mr. Siddhant Kumar, learned counsel appearing on behalf of the complainant. It is their case that for establishing the offence of Section 409 IPC the entrustment of property need not be of the complainant. They submit that serious allegations are against the applicant which warrant him not being released on bail. Further, the applicant has a history of being non-cooperative and is a flight risk. They also highlight the findings rendered by this Court in ***AKJ (HC)***, as also the Supreme Court in ***AKJ (SC)***.

9. I have considered the submissions made by the learned counsel for the parties and have also perused the record.

IV. Analysis

A. The Crux of the Allegations

10. The crux of the allegation contained in the Chargesheet is that ECL, being managed and controlled by the accused persons including the applicant herein, raised funds, entrusted to them by investors/creditors, which were in the garb of legitimate business activities, siphoned off and diverted from ECL. At all times, the accused persons are claimed to have exercised dominion and control over the funds of ECL, which were dishonestly diverted from ECL to entities owned and controlled by them. The investigation by the EoW is claimed to have revealed that the accused persons actively participated in the board meetings and played a pivotal role in the commission of the offences.

Importantly, the applicant was found to be the authorized signatories of the bank accounts and further authorised to execute documents on behalf of ECL.

11. The modus operandi adopted by the accused persons was explained through the following broad three-fold allegations in the chargesheet:

First, undertaking related-party transactions by offering loans without any security of interest, the beneficiaries of which, were ultimately the accused persons;

Second, offering loans to entities with no business or repayment capacity deliberately without obtaining any security or initiating recovery in case of default; and

Third, purchasing luxury cars from related entities at inflated prices without any boar approval and which was not used in the business or official purpose.

12. To provide a certain degree of definitiveness and specificity to the aforenoted allegations, illustratively the following transactions, as detailed in the chargesheet, and undertaken by ECL, may be taken note of. Before detailing the same, the role of the applicant, as described in the Chargesheet, in the companies which shall be introduced may be seen:

Sl. No.	**Name of the Company**	**Role of the Applicant**
1.	ECL	Director and Shareholder from 13.10.2021 till date

2.	M/s Exclusive Motors Pvt. Ltd.	Fulltime Chief Financial Officer
3.	M/s Luxus Retail Pvt. Ltd.	Director and Shareholder
4.	M/s Sulojay Realty Pvt. Ltd.	Director

B. The Transactions with M/s Luxus Retail Pvt. Ltd.

13. Pursuant to the search conducted at the registered office of ECL, the EoW is stated to have found a file pertaining to M/s Luxus Retail Pvt. Ltd. ("**Luxus**"), which contained photocopies of the transactions between ECL and Luxus. An analysis of the said file, as also the books of accounts of ECL, revealed that on 10.03.2022 a business loan of Rs. 5 Crores was given to Luxus. *Qua* this loan, a repayment entry of Rs. 5 Crores was made on 31.03.2022, in the ledger account maintained with ECL (though in actuality the transactions took place on 21.04.2022 and 29.06.2022).

14. On 19.04.2022 a transfer of Rs. 9.09 Crores was made into the account of Luxus by ECL. On 16.12.2022, a journal entry was made to square off the said amount. In support thereof, an invoice dated 16.12.2022 for an amount of Rs. 9.09 Crores was found along with a Delivery Challan, showing the purchase a used Bentley Musanne ("**Bentley 1**") from Luxus. There is also, materially, no board approval for the purchase of Bentley 1 by ECL.

15. The investigation of EoW also revealed that on the very same day that the transfer of funds to Luxus to the tune of 9.09 Crores was made, an amount of Rs. 6 Crores was transferred to the co-accused, who utilized it for his personal gain and to repay Rs. 2 Crores of the original loan of 5 Crores.

Further, a sum of Rs. 3 Crores was directly paid by Luxus to ECL on 21.04.2022 by this freshly received loan.

16. On the purchase of Bentley 1, where it came from, and to whom does it belong, the EoW's investigatin revealed that, Lexus purchased the car from a Dubai firm on 28.01.2022 at the price of Rs. 2.19 Crores, which was Nhava Sheva Port, Mumbai on 07.03.2022, for which a Customs Duty to the tune of Rs. 4.62 Crores were paid from the 9.09 Crores given to Lexus by ECL. On 15.03.2022, the Mumbai RTO office registered the Bentle 1 in the name of Luxus. The total cost (4.62 Crores + 2.19 Crores) comes out to be 6.81 Crores (as is also mentioned in the Registration Certificate dated 15.03.2022). This car was then transferred in the name of ECL, at an artificially inflated price, to square off a liability of Rs. 9.09 Crores.

17. Bentley 1 was registered at the office addresses of both Lexus and ECL i.e., Premises No. 5 & 6, Noori Baug, Near Kumaria Hotel, Andhrei Kurla Road, Andheri (East) Mumbai. However, the investigation revealed that neither companies have an operational office at the said place. The said address was also registered in the name of a related company i.e., Exclusive Motors Pvt. Ltd. ("**EMPL**"), which was found to be using the said vehicle. It may also be noted that the applicant is a director in EMPL.

18. During searches, a rent agreement, bearing the signatures of the applicant, was found having been executed between EMPL and ECL whereby the premises in Mumbai were sublet to ECL.It may also be noted that in

addition to Bentley 1 purchased by ECL, a company with a paid-up equity capital of Rs. 2.5 Crores, another Bentley Car and one BMW X5 are also stated to have been purchased by ECL.

19. Thus, the transactions *prima facie* reveal that an amount of Rs. 9.09 Crores was advanced by M/s ECL to a related entity *viz*. Lexus without charging any interest and without proper documentation. The said amount was subsequently found to be adjusted through an inflated invoice reflecting the sale of a used vehicle. Evergreening of loans by the accused persons as also incorrect reporting by both Lexus and ECL, *prima facie,* seems to be made out.

C. Transactions with M/s Sulojay Realty Pvt. Ltd.

20. The investigation revealed that ECL granted unsecured loans to its related company M/s Sulojay Realty Pvt. Ltd. ("**Sulojay**") to the tune of Rs. 17 Crores (5 Crores + 12 Crores) despite Sulojay not having any business operations, no revenue and no unencumbered assets. The sole property of Sulojay was found to be mortgaged to ICICI Bank for a loan that took place subsequent to that of ECL. ICICI Bank considering the financial health of Sulojay was found to take sufficient collateral security, corporate guarantee of EMPL, exclusive charge on current assets of SRPL and personal guarantee of EMPL exclusive charge on current assets of SRPL and a personal guarantee of co-accused Satya Prakash Bagla.

21. To the contrary, ECL gave the loans without any security, corporate guarantee or personal guarantee. No recovery steps were initiated after the said

company defaulted on repayments. Most importantly, the loan transaction of 12 Crores is stated to be in violation of ECL's own Board Resolution dated 27.09.2022 restraining transactions above 10 Crores with related parties in a financial year. In the board meeting dated 27.09.2022 in which the said resolution was passed, all co-accused, including the applicant, who signed as Chairman, were present.

22. Notably, the loan of Rs. 12 Crores was sanctioned to Sulojay on 04.06.2022, which is 2 days after the acquisition of almost 100% of Sulojay's shares by EMPL, in which as noted above, the applicant herein served as the Chief Financial Officer.

D. Other Transactions

23. In addition to the above, the Chargesheet records various loans granted by ECL, some of which may be taken note of as under:

24. ***First***, one M/s Lotus Enterprises was granted a loan of 27.07.2022 of Rs. 47 Crores (of which Rs. 24 Crores was disbursed) for the construction of flats in a real estate project titled "*Lotus Enpar Residency*" situated in Mumbai. As per the documents executed between ECL and the said company, it was stated that 24 flats in the proposed project of M/s Lotus Enterprises were collateral security for the said loan. However, the investigation of EoW, including the information received from the Mahrashtra Real Estate Regulatory Authority revealed the aforesaid to be completely false. Thus, effectively, an amount of Rs. 24 Crores were sanctioned to M/s Lotus Enterprises where no registered or

enforceable collateral security document were executed or shown by the companies. Further, no evidence of interest payments came about.

25. ***Second***, one M/s UV Asset Reconstruction Company Limited assigned 3 NPA accounts, and the respective Securities Receipts, to ECL. For the said assignment ECL paid approximately 100 Crores. However, the accused persons were unable to provide any original documents related to the Security Receipts, which are essential at the time of realization.

26. ***Third***, one M/s Hawk Capital Pvt. Ltd., a consultancy services, acquired, *inter alia*, Security Receipts from a securitization trust through the means of a short-term loan funded by ECL. This loan was squared off through the transfer of the same Security Receipts. As on date, the investigation revealed, that the whereabouts of the original Security Receipts are unknown.

27. Additionally, there are also allegations of forgery and falsification of accounts, concerning the transactions undertaken by ECL. For instance the loan repayments from Luxus, the co-accused Mr. Bagla, and other borrowers including Raqibali, Sanmati Trading and UVARCL were actually credited to the company’s bank account in April-June, 2022. However, they were recorded in the books as of 31.03.2022. This was done to artificially reduce the outstanding loan balances and present an improved financial position at year end by increasing the bank balance.

28. The role attributed in the Chargesheet to the co-accused, including the applicant herein, who is a Chartered Account, director, and shareholder in the companies noted above, is reproduced as under:

> "• *They were actively associated with the management of M/s Exclusive Capital Limited (ECL), wherein accused Satya Prakash Bagla was the Managing Director & Shareholder accused Johnson KA was the Executive Director & Chief Financial Officer (CFO) and accused Achal Kumar Jindal was the Executive Director. They were involved in the management, affairs and day-to-day operations of M/s Exclusive Capital Limited (ECL) and its related entities.*
>
> • *They played a key role in taking major financial decisions, holding board meetings, approving board resolutions and sanctioning loan transactions without proper due diligence in the NBFC M/s Exclusive Capital Limited (ECL).*
>
> • *They facilitated the diversion of funds from M/s Exclusive Capital Limited (ECL) to related entities through related party transactions by violated approved board resolutions/guidelines for wrongful gain*
>
> • *They participated in granting loans to related-party/entities owned and controlled by the accused persons without adequate colleterial security or due diligence.*
>
> • *They approved loans to companies having no business operations or repayment capacity, without proper documentation, without charging interest and in violation of internal board resolutions.*
>
> • *They were involved in the diversion of ~14 crores to M/s Luxus Retail Pvt. Ltd. for the purchase of a second-hand Bentley car at an inflated price in the name of M/s ECL. Further, no usage record or maintenance record of the said high-end vehicle was found during the investigation.*
>
> • *They approved the loan of ~17 crores to M/s Sulojay Realty Pvt. Ltd., a company having no revenue or business activities, in violation of ECL's internal Board Resolution, which was also passed by them.*

> *• They were present in and participated in the meetings wherein the Board Resolution restricting loan exposure beyond ~10 crores in related-party transactions was approved, indicating their active involvement in the day-to-day affairs of ECL. Later, with a melafide intention, violated the same and granted a loan of Rs. 12 Crores to their related party/entities M/s Sulojay Realty Pvt. Ltd.*
>
> *• They held positions as Directors/Shareholders/Key Management Personnel in M/s Exclusive Capital Limited (ECL) and other group companies of accused Satya Prakash Bagla, including M/s Sulojay Realty Private Limited, M/s Luxus Retail Private Limited and M/s Exclusive Motors Pvt. Ltd, thereby exercising effective control over the affairs of the said companies.*
>
> *• They played an important role in sanctioning dubious loans, facilitating related-party transactions and diversion of funds from M/s Exclusive Capital Limited (ECL).*
>
> *• They deliberately evaded investigation and failed to cooperate with the investigating agency in tracing the money trail, identifying the beneficiaries and recovering relevant evidence.*
>
> *• During custodial interrogation, it is revealed that the accused persons were actively involved in the financial affairs and loan sanctioning process of M/s Exclusive Capital Limited (ECL).*"

29. Specifically, against the applicant, it is contended that being a Chartered Accountant, he played an active role in collusion/criminal conspiracy with other accused persons in manipulating financial records, conducting board meetings for passing false resolutions and creating bogus/false rent agreements for non-existent offices to support/complete the fraudulent transactions. The applicant despite being, what Mr. Hossain contends, an "*employee*", was not drawing a salary as the Executive Director, which is indicative of him getting compensated through other means.

30. Maximum punishment with respect to offences with which the applicant is charged, if proved, are as under:

Sections Charged With	Description	Maximum Punishment
420	Cheating and dishonestly inducing delivery of property	7 years imprisonment and fine
409	Criminal breach of trust by public servant, or by banker merchant or agent	Imprisonment for life and shall also be liable to fine
468	Forgery for purpose of cheating	7 years imprisonment and fine
471	Using as genuine a forged document or electronic record	7 years imprisonment and fine
477A	Falsification of accounts	7 years imprisonment and fine

E. Rejecting the Applicant's Contentions

31. At this stage the arguments of the applicant deserving consideration may be analysed.

32. Mr. Hossain contends that the complainants became shareholders and holders of CCPS after the date on which the offending transactions took place. Thus, according to him a foundational facet of criminal breach of trust is missing, it being entrustment, which must follow misappropriation. He also claims that the applicant merely had a single equity share in ECL, and all loans except one stand paid.

33. At the outset it may be noted that for the purposes of establishing criminal breach of trust, the entrustment need not, *necessarily*, be of the complainant themselves. The wheels of criminal law can be put in motion by any person. There is no *locus standi* that a complainant needs to prove in order to inform the investigative agencies about the commission of a cognizable offence. *Qua* the allegation of Section 420 being mutually exclusively to Section 405, as noted by the co-ordinate bench of this Court in ***AKJ (HC)***, the charges may be proved alternatively.

34. Reliance may also be placed on ***Bhim Sain Arora and Ors. v. State***,[3] where an order framing charge against the directors of a company under Sections 406, 409, 420 was questioned, and the Court, while upholding the order observed as under:

> "***20.*** *…However, the fact that the money invested by these investors were fraudulently transferred to the accounts run by the petitioners and other companies' prima facie amounts to commission of the breach of trust as defined under Section 405 of the IPC. Admittedly, the money was invested by the complainants and the petitioners being the directors of accused company, petitioner No. 3, had dominion over the said money and without express consent of the said investors, money was transferred to other bank accounts of the petitioners.*
>
> ****
>
> ***24.*** *It was also argued on behalf of the petitioner Nos. 1 and 2 that they are not 'agents' within the meaning of Section 409 of the IPC as they were 'Directors' of petitioner No. 3/accused, Multicity Chit Fund Pvt. Ltd. The Hon'ble Supreme Court in Shivnarayan Laxminarayan Joshi v. State of Maharashtra12, while dealing with a similar contention, had observed and held as under:—*

[3] 2025 SCC OnLine Del 6721.

"5. Secondly, it was contended that substitution of one chose action for another will not amount to a breach of trust or conversion to his own use by the accused. In R.K. Dalmia v. Delhi Administration [AIR 1962 SC 1821 : (1963) 1 SCR 253 : (1962) 32 Comp Cas 699] this Court while relying on authorities of the Lahore court and other courts has clearly found that a director is not only an agent but is in the position of trustee. This has been held in People Bank v. Harkishen Lal [AIR 1936 Lah 408, 409] which was approved by this Court. In this connection this Court observed as follows:

"Both Dalmia and Chokhani therefore had dominion over the funds of the Insurance Company. [AIR 1962 SC 1821 : (1963) 1 SCR 253 : (1962) 32 Comp Cas 699]"

6. In Peoples Bank v. Harkishen Lal [AIR 1936 Lah 408, 409] it was stated:

"Lala Harkishen Lal as Chairman is a trustee of all the moneys of the Bank".

7. In Palmer's Company Law, 20th Edn., it is stated at p. 517:

"Directors are not only agents but they are in some sense and to some extent trustees or in the position of trustees."

8. Similarly this Court pointed out that in case of G.E.R. & Co. v. Turner [LR [1872] 8 Ch. App. 149, 152] Lord Selborne observed:

"The directors are the mere trustees or agents of the company, trustees of the company money and property-agents in the transaction which they enter into on behalf of the company."

9. The same view was taken in Re Forest of Dean [LR [1878] 10 Ch.D. 450, 453] wherein in Sir George Jessel observed as follows:

"Directors are called trustees. They are no doubt trustees of assets which have come into their hands, or which are under their control."

10. This Court while approving the cases mentioned above observed as follows:

"We are, therefore, of opinion that Dalmia and Chokhani were entrusted with the dominion over the funds of the Bharat Insurance Company in the Banks. [AIR 1962 SC 1821 : (1963) 1 SCR 253 : (1962) 32 Comp Cas 699]"

11. Thus, this Court fully approved the law laid down by the cases mentioned above that a director was clearly in the position of a trustee and being a trustee of the assets which has come into his hand he had dominion and control over the same. A clear finding

> *to this effect has also been given by the High Court at p. 33 of the judgment where the High Court has observed as follows:*
> *"The property being an actionable claim against Rekhchand Gopaldas, Accused 1 as the managing director was entrusted with complete dominion over the right to recover the same under the said articles and as such he was capable of committing dishonest misappropriation or conversion of that actionable claim. The finding of the learned trial Judge on the point of entrustment, therefore, has to be upheld and we confirm the same"."*
> *(emphasis supplied)*

> *25. In view of the aforesaid discussion and in facts and circumstances of the present case, the impugned order framing charge dated 19.07.2022 passed by learned CJM insofar as it relates to framing of charges against the petitioners for the offences punishable under Sections 409/420 read with Section 120B of the IPC, is upheld.*"

35. The argument of all loans, except one, having been paid by the borrowers is also bereft of any merit. It is the original act of misappropriation, siphoning off, diversion and misutilization that forms the offending act. The subsequent repayment, which may have possibly happened with collusion, has no bearing on the same.

36. The argument of Mr. Hossain that the applicant had only a single share in ECL, is not the beneficiary and recipient of monies and the share value has not depreciated also does not merit consideration. The management of the company, it is trite law, is separate from its owners i.e., the shareholders. Whatever be the shares held by the applicant, it being the Executive Director of ECL is the material fact which has a bearing on the allegations. Insofar as the question of the applicant not being a beneficiary is concerned. It may ***firstly***, be noted that the applicant is the Chief Financial Officer of EMPL which was found to be in control of Bentley 1; and ***secondly***, the Chargesheet itself records

at para. 19.77 that "*the purpose and rationale behind the layering of funds, as well as the identification of the ultimate beneficiaries of these transactions, remain unexplained at this stage. These aspects require further verification and are to be ascertained during the further investigation alongwith detailed forensic examination of the financial records, as the arrested accused persons concealed these facts at the enquiry stage and during investigation.*"

37. It may also be noted that similar arguments were raised before the Co-Ordinate Bench in ***AKJ (HC)***, para. 13 of which summarises the same and reads as under:

> "***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: -*
> …
> *(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*
> …
> *(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."

38. The Court rejected each of the arguments noted above holding as under:

"***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.*

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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 thoseproceedings 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.*"

39. Insofar as the question of depreciation of the value of shares/securities is concerned, at this stage a mini-trial cannot be conducted to determine what as on date is the value of the shares and from it to extrapolate whether a loss is made out or not.

40. The Supreme Court in ***State of Gujarat v. Mohanlal Jitamalji Porwal and Anr.***,[4] ***YS Jagan Mohan Reddy v. CBI***,[5] ***Anil Kumar Yadav v. State (NCT of Delhi)***,[6] has taken the view that economic offences deserve a compounded scrutiny. Mr. Hossain contends that since ECL did not take public deposits/monies, thus, the said standard shall not apply to the applicant. While the present case deserves the rejection of bail on conventional standards, the Court also finds that the case warrants a serious approach. While it is indeed correct that financial crimes owing to them causing large scale financial havoc are treated on a different pedestal, they are also considered serious by virtue of the nature of crime itself. While conventional crimes may occur owing to a rise in passions, a financial crime takes place with cool calculation with the sole intent to hurt and injure the victims.

F. Conduct of the Applicant

41. At this stage, the conduct of the applicant may be taken note of.

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[4] (1987) 2 SCC 364.
[5] (2013) 7 SCC 439.
[6] (2018) 12 SCC 129.

42. It has come on record that the applicant herein had filed a petition before this Court bearing Crl. MC 321/2026 seeking the quashment of the instant FIR. *Vide* order dated 15.01.2026, this Court recorded the undertaking of the applicant that he shall join the investigation as and when directed in writing by the IO. The said undertaking was violated by the applicant, and judicial notice of it was taken by the Court in ***AKJ (HC)***,wherein this Court observed:

> "***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 theabove peculiar backdrop, no fault can be found in the issuance of nonbailable warrants.*"

43. *Vide* ***AKJ (HC)***, this Court also dismissed Crl. M.C. No. 925/2026 filed by the applicant seeking the recall of the Non-Bailable Warrants Issued against him. An SLP was filed against the said decision and the Supreme Court in ***AKJ (SC)*** materially observed:

> *"**2.** In our view, prima facie, stay of investigation in the facts cannot be allowed. So far as the stay of non-bailable warrant, we have perused the reasoning as given by the High Court in particular in paragraphs 32 and 33 of the impugned order. Looking to the same, even after filing of undertaking,*

when the petitioner has not cooperated with the investigation, at this stage, we are not inclined to interfere in the order impugned."

44. In totality, the applicant is stated to be an absconder for a period of 5 months and finally surrendered only after proceedings for declaring him as a proclaimed offender began. In the 1-day police custody as well, cooperation was not extended to the police. Importantly, the Chargesheet records the following concerning conduct of the applicant:

"*That arrested accused persons have given evasive and contradictory replies regarding sanction of loans, board approvals and accounting entries. Despite documentary evidence bearing their signatures, they have attempted to disown responsibility, which clearly reflects their non-cooperative conduct.Moreover, conduct of accused Achal Kumar Jindal, Jonhson revealed that they were wilfully and intentionally tried to evade the process of investigation.*"

45. The Chargesheet also notes that the NCLT in the case of ***Kanta Aggarwal and Anr. v. Exclusive Capital Limited and Ors.***,[7] appointed Hon'ble Mr. Justice (Retd.) RK Gauba as the observer of ECL after its directors were suspended. The NCLAT *vide* order dated 16.12.2024 passed in Company Appeal (AT) No. 161/24 directed that:

"...It is also directed if an amount of more than Rs. 10 Lakhs is spent by the company, the directors viz. the appellants, shall inform/bring it to the notice of the Ld. Observer and if the amount to be spent is more than Rs. 25 lacs, the concurrence of the Ld. Observer is to be taken"

46. Further, the Supreme Court upheld the condition in SLP (C) No. 4540/2025 *vide* order dated 24.02.2025 wherein the Court observed:

[7] Company Petition No. 48/2024.

> *"…we find it appropriate to direct that the respondent No. 7, Exclusive Capital Limited, shall continue with its day-to-day business activities. However, it shall not enter into any financial transaction exceeding f10,00,000/- (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 NCL T, where proceedings under Section 242 of the Companies Act, 2013, are pending. The NCL T may, thereupon, pass appropriate orders…"*

47. However, in an attempt to render the Supreme Court order futile, the Chargsheet records that the accused persons have been undertaking various transactions on a daily basis below the limit of 10 lakhs in a manner such that it is not required to be brought to the notice of the observer. This conduct was also recorded by the Court in ***AKJ (HC)***, wherein the Court noted:

> "*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.*"

48. In ***Anil Kumar Yadav v. State (NCT of Delhi)***,[8] the Supreme Court noted as under:

> "***17.*** *While granting bail, the relevant considerations are: (i)* ***nature of seriousness of the offence****; (ii) character of the evidence and circumstances which are peculiar to the accused; and (iii) likelihood of the accused fleeing from justice; (iv) the impact that his release may make on the prosecution witnesses, its impact on the society; and (v) likelihood of his tampering. No doubt, this list is not exhaustive. There are no hard-and-fast rules regarding grant or refusal of bail, each case has to be considered on its own merits. The matter always calls for judicious exercise of discretion by the Court.*"

(Emphasis supplied)

[8] (2018) 12 SCC 129.

49. In ***Centrum Financial Services Ltd. v. State of NCT of Delhi and Anr.***,[9] the Supreme Court, in almost similarly placed facts, while cancelling the bail granted by the High Court made the following material observations:

> *"1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 14-9-2020 [Jayant Kumar Jain v. State, 2020 SCC OnLine Del 2103] passed by the High Court of Delhi at New Delhi in Bail Application No. 2442 of 2020 by which the High Court has allowed the said application preferred by Respondent 2 herein and has directed that he be released on bail in connection with FIR No. 128 of 2019 PS Economic Offences Wing in New Delhi for the offences under Sections 409, 420, 467, 468, 471 and 120-BIPC, the original complainant has preferred the present appeal.*
>
> *2. That the appellant herein a non-banking financial company (NBFC) lodged an FIR/complaint with the Economic Offences Branch, New Delhi against the company M/s Sri Aranath Logistics Ltd. (formerly known as "M/s LMJ Logistics Ltd."), Respondent 2 herein Jayant Kumar Jain, Managing Director and others for the offences under Sections 409, 420, 467, 468, 471 and 120-BIPC.*
>
> *3. It was alleged against the accused-Respondent 2 herein that he is the Managing Director of M/s Aranath Logistics Ltd. engaged in the business of multi-commodity trading of agricultural and non-commodities agricultural. That by way of written agreement accused availed loan credit facilities to the tune of Rs 25 crores for a term of 180 days from the complainant Company. It was alleged that the said amount of Rs 25 crores was disbursed in the year 2017. It was alleged that the said amount of Rs 25 crores was required to be used by the company for its own purpose. It was further alleged that for the purpose of repayment of loan, no stock statement was submitted and mortgage was also not created as agreed between the parties. It was further alleged that instead of using the amount for the purpose mentioned in the agreement the same was transferred to several fake/shell companies.*
>
> ****
>
> *21. Thus, it has been found that the credit facility to the tune of Rs 25 crores availed by M/s LMJ Logistics Ltd. were not used for any business purposes i.e. sale purchase of agri or non-agri products but it has been rotated*

[9] (2022) 13 SCC 286.

> *through shell entities and immediately transferred to other company M/s LMJ International Ltd. to square off the liabilities through the shell companies.*
>
> ****
>
> *24. All these aforesaid allegations and the material collected during the course of the investigation which are being part of the charge-sheet and supplementary charge-sheet are not taken note of by the High Court and the High Court has just simply ignored the same and has released Respondent 2 on bail by simply observing that case arises out of a commercial transaction and the dispute is of a civil nature. Therefore, the High Court has not at all taken into consideration the relevant considerations while granting bail. Even the High Court has not at all taken note of the reasoning given by the learned Sessions Court while rejecting the bail application of Respondent 2.*
>
> ****
>
> *31. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand and the grounds on which the High Court has released Respondent 2 on bail, we are constraint to observe that in the instant case while dealing with the application of the accused for grant of bail, the High Court has completely lost sight of the basic principles enumerated above. The High Court has not at all considered the modus operandi adopted by the accused in commission of serious offence of siphoning and/or transferring the huge sum to another company through shell companies. The High Court has also not taken into consideration the status report filed by the investigating officer in which in detail it has been pointed out how systematically the accused have committed the offence and misappropriated/siphoned off the huge sum through shell companies. Thus, it appears that the High Court has not adverted to the relevant considerations and has granted the bail mechanically by observing that the case arises out of a commercial transaction.*"

50. It may also be noted that the State has filed an application seeking cancellation of bail granted to co-accused Mr. Bagla on the grounds that he has siphoned of money after being enlarged on bail. The possibility of the present applicant, a Chartered Account who remained successful in evading arrest for a period of 5 full months, not making himself available for trial and/or tampering with the complex financial trails, cannot be ignored.

V. Conclusion

51. Considering the entirety of the facts and circumstances of the present case, at this stage, the Court is not inclined to grant bail to the applicant.

52. Accordingly, the present application for bail stands dismissed.

53. It is clarified that the observations made in the present order are solely for the purposes of adjudicating the present bail application and shall not have a bearing on the merits of the matter, including the trial.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 24, 2026
Rao