



RAJASTHAN HIGH COURT

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

सत्यमेव जयते

S.B. Civil Writ Petition No. 23246/2026

CNR: RJHC010974412026 | URN: CW / 40118U / 2026

Tejpal Mirdha S/o Bhura Ram Mirdha, Aged About 41 Years,
Resident Of Ward No. 19, Mirdha Colony, Kuchera, District
Nagaur, Rajasthan.

-----Petitioner

Versus

1. The State Of Rajasthan, Through Secretary, Department Of Home Affairs, Government Of Rajasthan, Jaipur
2. The Director General Of Police, Anti - Corruption Bureau, Rajasthan, Jaipur
3. The Additional Superintendent Of Police, Anti Corruption Bureau Chowki, Nagaur
4. The Chief Election Commissioner, Rajasthan Election Commission, Jaipur
5. The District Collector-Cum-District Election Officer, Nagaur
6. The Returning Officer, (Sub-Divisional Officer-Cum-Sub-Divisional Magistrate), Municipal Board, Kuchera, District Nagaur.

-----Respondents

For Petitioner(s)	: Mr. Ramawatar Singh Mr. Jai Kishan Mr. Mukesh Kumar Mr. Sumer Singh Gour Mr. Raj Bishnoi Mr. Mahendra Choudhary Mr. Shaitan Singh
For Respondent(s)	: Mr. Rajendra Prasad, AG, through V.C. Mr. B.L. Bhati, AAG assisted by Mr. Sandeep Soni Mr. S.S. Ladrecha, AAG assisted by Mr. Ravindra Jala Mr. I.R. Choudhary, AAG assisted by Mr. Kuldeep Singh Solanki and Mr. Vikram Choudhary Mr. Vikas Balia, Sr. Adv. Through V.C. assisted by Mr. Priyansh Arora



HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

ORDER RESERVED ON 20/09/2026 AT 12.30 PM

ORDER PRONOUNCED ON 20/09/2026 AT 02:00 PM

1. Although today is Sunday and a holiday, the Hon'ble Chief Justice, upon urgency being shown by the petitioner, has directed that the matter be heard today.

2. Heard on Stay Application No.22385/2026.

3. Shri Ramawatar Choudhary, learned counsel for the petitioner, submits that the petitioner was elected as Ward Member from Ward No.21 of the Municipal Board, Kuchera, District Nagaur, on 14.09.2026. The petitioner has submitted his nomination form for contesting the election to the post of Chairman of the Municipal Board, Kuchera, which is scheduled to be held on 21.09.2026. The nomination form was submitted by the petitioner on 16.09.2026 and the last date for withdrawal of nomination was 18.09.2026.

4. Learned counsel submits that the petitioner had earlier remained Chairman of the Municipal Board, Kuchera, from the year 2015 to 2018. In the year 2018, one Shaitanram Tak, Ward Member from Ward No.03, submitted a complaint before the ACB alleging, *inter alia*, that during the period from 2015 to 2018, the petitioner, in collusion with Municipal Officers and employees, misused his position by issuing various work orders and committed serious financial, technical and administrative



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irregularities, resulting in alleged misuse of public funds and violation of the applicable rules.

5. Learned counsel submits that no action whatsoever was taken on the aforesaid complaint for the last eight years. However, now, all of a sudden, after the petitioner has been elected as Ward Member from Ward No.21 and has submitted his nomination form for contesting the election to the post of Chairman of the Municipal Board, Kuchera, the Director-cum-Special Secretary, Department of Local Self Government, vide order dated 18.09.2026, has granted sanction under Section 17-A of the Prevention of Corruption Act, 1988, and FIR No.0268/2026 has been registered against the petitioner. Learned counsel submits that, after registration of the FIR, the respondents are intending to arrest the petitioner so as to deprive him of the opportunity to cast his vote in the ensuing election for the post of Chairman of the Municipal Board, Kuchera.

6. Learned counsel further submits that the FIR registered against the petitioner at 23:58 hours on 18.09.2026 was not uploaded on the official website until 15:30 hours on 19.09.2026. Learned counsel submits that, unless appropriate directions are issued restraining the respondents from arresting the petitioner in connection with FIR No.0268/2026, the petitioner would be deprived of his right to participate in the election process and cast his vote for the post of Chairman of the Municipal Board, Kuchera. It is submitted that such deprivation would have implications under Articles 14, 19, 21 and 243-ZA of the Constitution of India.



7. *Per contra*, Shri Rajendra Prasad, learned Advocate General, while opposing the prayer for interim protection from arrest, submits that, although the petitioner has prayed for an order restraining the ACB from arresting him in connection with FIR No.0268/2026 registered at Police Station ACB-CPS, Jaipur, he has neither made any specific prayer for quashing of the said FIR nor disclosed any ground questioning the legality of the registration of the FIR.

8. Learned AG submits that a bare perusal of the FIR discloses commission of cognizable offences against the petitioner and, therefore, in the absence of any specific challenge to the FIR, no interim protection from arrest, as prayed for by the petitioner, ought to be granted. Learned AG further submits that the present writ petition filed under Article 226 of the Constitution of India seeking protection from arrest is not maintainable, particularly when the petitioner has an efficacious remedy of seeking anticipatory bail before the competent criminal Court.

9. Drawing attention of the Court to the FIR and various other documents placed on record by the petitioner, learned AG submits that this is not a case where an overnight decision was taken by the ACB to register the FIR against the petitioner. He submits that inquiries/investigations in relation to the alleged irregularities committed by the petitioner while holding the post of Chairman of the Municipal Board, Kuchera, during the period from 2015 to 2018, were pending before various authorities and reports in respect thereof were awaited. He submits that, after receipt of the inquiry reports and other material relating to the alleged



irregularities, the Inspector General of Police, ACB, Rajasthan, Jaipur, on 24.08.2026, requested the Secretary, Department of Local Self Government, to grant approval/sanction under Section 17-A of the Prevention of Corruption Act, 1988, against the petitioner. The Secretary, Department of Local Self Government, after considering the material placed before him along with the communication dated 24.08.2026, granted approval/sanction on 18.09.2026 to proceed against the petitioner under Section 17-A of the Prevention of Corruption Act, 1988.

10. Learned Advocate General submits that, in the present writ petition, neither FIR No.0268/2026 nor the order granting approval/sanction to proceed against the petitioner under Section 17-A of the Prevention of Corruption Act, 1988, has been challenged. Learned Advocate General places reliance upon the judgment of the Hon'ble Supreme Court in ***M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, AIR 2021 SC 1918***, and submits that interference with criminal investigation or grant of interim protection from arrest ought to be confined to exceptional cases, particularly as such orders may have the effect of impeding or delaying the investigation.

11. Learned AG further submits that neither the right to vote nor the right to contest an election is an absolute or fundamental right, but is subject to the statutory framework governing the concerned election. It is, therefore, submitted that the petitioner, merely on the basis of an apprehension of arrest, cannot invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India seeking interim protection from arrest.



12. Along with **M/s Neeharika Infrastructure (Supra)**, learned AG, in support of his submissions, places reliance upon the following judgments:

(i) Rama Kant Pandey v. Union of India, (1993) 2 SCC 438;

(ii) K. Krishna Murthy v. Union of India, (2010) 7 SCC 2021;

(iii) Supreme Court Bar Association v. B.D. Kaushik, (2011) 13 SCC 774; and

(iv) State of Telangana v. Habib Abdullah Jeelani, (2017) 1 SCC 81.

13. Heard.

14. Having heard learned counsel for the parties and having perused the material available on record, this Court finds that the petitioner, who is an elected Ward Member of Ward No.21 of the Municipal Board, Kuchera, and is an eligible candidate for the post of Chairman of the Municipal Board, Kuchera, which election is scheduled to be held on 21.09.2026, has filed the present writ petition under Article 226 of the Constitution of India seeking protection from arrest after registration of FIR No.0268/2026 by the ACB against him.

15. The allegations contained in FIR No.0268/2026, which forms part of the record, pertain to alleged financial, technical and administrative irregularities committed by the petitioner while holding the post of Chairman of the Municipal Board, Kuchera, during the period from 2015 to 2018. The complaint in relation to the aforesaid alleged irregularities was lodged approximately eight years ago, on 04.05.2018, by one Shaitanram Tak, Ward Member of Ward No.03.



16. It is the case of the petitioner that he apprehends arrest in connection with FIR No.0268/2026 and that, upon his arrest, he would become ineligible to cast his vote in the election for the post of Chairman of the Municipal Board, Kuchera, although he would continue to remain a member of the Municipal Board, Kuchera.

17. It is true that, although a copy of FIR No.0268/2026 has been placed on record by the petitioner, there is no specific prayer in the present writ petition seeking quashing of the said FIR. However, upon careful examination of the material available on record, this Court finds that, at this stage, there is no satisfactory explanation before the Court as to why the inquiries in relation to a complaint lodged in the year 2018 remained pending for approximately eight years and why the approval/sanction to proceed against the petitioner under Section 17-A of the Prevention of Corruption Act, 1988, came to be granted only on 18.09.2026, immediately after the petitioner was elected as Ward Member from Ward No.21 and submitted his nomination form for the post of Chairman of the Municipal Board, Kuchera.

18. The question as to whether the registration of FIR No.0268/2026, at this stage of the election process, amounts to any unlawful interference with the election process, or whether the registration of the FIR constitutes a *bona fide* exercise of statutory powers, is a matter which requires consideration upon a detailed response being filed by the respondents. No final opinion on the said aspect is being expressed at this stage.

19. In the considered opinion of this Court, the mere fact that the petitioner has not, at this stage, specifically challenged FIR



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No.0268/2026 cannot, in the facts and circumstances of the present case, by itself constitute an absolute bar to consideration of the petitioner's prayer for interim protection from arrest, particularly when the petitioner asserts that the FIR was registered at 23:58 hours on 18.09.2026 and that its certified copy has not yet been made available to him. The immediate consequence of the petitioner's arrest, if made, is also stated to be his inability to participate in the impending election process for the post of Chairman of the Municipal Board, Kuchera.

20. In view of the aforesaid facts and circumstances, while granting liberty to the petitioner to make appropriate amendments in the present writ petition, and granting time to the respondents to file a detailed reply, this Court deems it just and proper, as an interim measure, to direct the officials of the ACB, Jaipur, not to arrest the petitioner in connection with FIR No.0268/2026 until the next date of hearing.

21. List the matter on 05.10.2026 in the appropriate category of the cause-list.

(KULDEEP MATHUR),J

1/Dinesh Suthar