

Kanhaiya Sahani And 2 Others vs State Of U.P. And Another on 1 May, 2025

Author: Sanjay Kumar Pachori

Bench: Sanjay Kumar Pachori

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:68661

Court No. - 72

Case :- APPLICATION U/S 528 BNSS No. - 14021 of 2025

Applicant :- Kanhaiya Sahani And 2 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Byas Kumar Prasad, Pradeep Kumar Keshri

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Pachori, J.

Sri Pradeep Kumar Keshri, learned counsel for the applicants and Sri Pankaj Kumar Rai, brief holder for the State and perused the material on record.

The present application under Section 528 of Bharatiya Nagarik Suraksha Sanhita, has been filed to quash the entire proceedings of Criminal Case No. 87678 of 2024, (State Vs. Munna Sahni and others) arising out of Case Crime No. 127 of 2024, under Sections 323, 325, 352 of I.P.C., Police Station- Bhelupur, District- Varanasi (Kashi Commissionerate Varanasi), as well as cognizance/ summoning order 21.09.2024 pending in the Court of Special Chief Judicial Magistrate, Varanasi.

Learned counsel for the applicants submits that applicants were not arrested during the course of investigation and the charge-sheet have been submitted against them. It is further submitted that the offence is punishable up to 7 years imprisonment.

Upon considering the facts and circumstances of the case, the prayer made by learned counsel for the applicants is, hereby, refused.

After some arguments, learned counsel for the applicants wants to withdraw the application with liberty to file a regular bail application before the court of competent jurisdiction.

In case bail application is filed by the learned counsel for the applicants, the same shall be decided in the light of the observations made in the judgment rendered by the Supreme Court in Satender Kumar Antil Vs. Central Bureau of Investigation & Another, (2022) 10 SCC 51, wherein the Supreme Court considering the category(A) as mentioned in the paragraph no. 2, bail applications of such accused against which charge-sheet has been submitted on appearance may be decided without the accused being taken in physical custody or by granting interim bail till the bail application is decided. It has been observed that at the cost of repetition, we wish to state that, in category A, one would expect a better exercise of discretion on the part of the court in favour of the accused.

The application stands disposed of with the aforesaid liberty.

Order Date :- 1.5.2025 Ishan