

# **Gulam Waris And Another vs State Of Up And 3 Others on 2 January, 2025**

**Author: Mahesh Chandra Tripathi**

**Bench: Mahesh Chandra Tripathi**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:62-DB

Court No. - 42

Case :- CRIMINAL MISC. WRIT PETITION No. - 21918 of 2024

Petitioner :- Gulam Waris And Another

Respondent :- State Of Up And 3 Others

Counsel for Petitioner :- Pramod Kumar Srivastava

Counsel for Respondent :- G.A.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Ms. Nand Prabha Shukla,J.

1. Heard learned counsel for the petitioners and learned A.G.A. for the State.
2. This writ petition has been filed praying for the following reliefs:

"A. Issue a writ order or direction in the nature of certiorari to quash the impugned first information report dated 12.10.2024 lodged by respondent no.4 against the Petitioners registered as Case Crime No. 320 of 2024 under section 190, 191 (2), 191

(3), 125, 115 (2), 76, 109(1), 298 Bhartiya Nyay Sanhita (B.N.S.), 2023 and Section 3 (2) (va) & 3 (1) (Dha) SC/ST Act, Police Station- Manjhanpur, District- Kaushambi (Annexure No. 1 to the writ petition).

B. Issue a writ order or direction in the nature of mandamus commanding/ directing the respondents not to arrest the Petitioners in pursuance of impugned first information report dated 12.10.2024 lodged by respondent no.4, registered as Case Crime No. 320 of 2024 under section 190, 191 (2), 191 (3), 125, 115 (2), 76, 109(1), 298 Bhartiya Nyay Sanhita (B.N.S.), 2023 and 3(2) (va) & 3 (1) (Dha) SC/ST Act, Police Station- Manjhanpur District Kaushambi."

3. Learned counsel for the petitioners submits that the impugned FIR has been lodged on false/vexatious/mischievous allegations and no offences are made out against the petitioners.

4. Learned A.G.A., on instructions, states that the police authorities in compliance of the directions issued by this Court in Criminal Misc. Bail Application No.45784 of 2020 (Ajeet Chaudhary vs. State of U.P. and another), reported in AIR ONLINE 2021 All. 1149 and with a view to implement the provisions of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amended 2015), have served the notices upon the informant. Learned AGA has further opposed the prayer for quashing of the FIR, which discloses cognizable offence.

5. The correctness of the allegations would have to be tested on the basis of the materials collected during the course of investigation and therefore, in view of the law laid down by Hon'ble Supreme Court in the case of State of Haryana and others vs. Bhajan Lal and others, 1992 Supp. (1) SCC 335 and M/s Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra, AIR 2021 SC 1918 and in Special Leave to Appeal (Crl.) No.3262/2021 (Leelavati Devi @ Leelawati & another vs. the State of Uttar Pradesh) decided on 07.10.2021 and the latest judgment in Criminal Appeal No. 843 of 2024 arising out of Special Leave Petition (Crl.) No. 10913 of 2023 (Directorate of Enforcement vs. Niraj Tyagi & ors.), no case has been made out for interference with the impugned first information report.

6. Confronted with the situation, learned counsel for the petitioners submits that he does not want to press the writ petition and the same may be dismissed as not pressed but leave may be accorded to press the bail/ anticipatory bail.

7. The writ petition is dismissed as not pressed leaving it open for the petitioners to apply before the competent court for bail/ anticipatory bail in accordance with law.

Order Date :- 2.1.2025 NLY