

Shamsher Patel vs State Of U.P. And 3 Others on 28 March, 2025

Author: Mahesh Chandra Tripathi

Bench: Mahesh Chandra Tripathi

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:44135-DB

Court No. - 42

Case :- CRIMINAL MISC. WRIT PETITION No. - 5915 of 2025

Petitioner :- Shamsher Patel

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ankit Kumar, Shrawan Kumar Pandey

Counsel for Respondent :- G.A.

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Lawyers are abstaining from judicial work. We have carefully perused the record.
2. Although, the prayer made in this writ petition is to quash the FIR dated 31.01.2025 registered as Case Crime No.0030 of 2025, under Sections 318(4) of B.N.S.2023, Police Station-Rohania, District-Varuna (Commissionerate Varansi) Varanasi but on perusal of record it reflects that the offences, complained of, are punishable only up to seven years and therefore, before effecting the arrest of the petitioner, specific provisions contained in Section 41(1)(b) and Section 41-A of Cr.P.C./Section 35(3) to 35(7) of Bhartiya Nagrika Suraksha Sanhita, 2023 be strictly complied with in view of law laid down by Hon'ble Apex Court in several judgments.

3. We have perused the FIR, which prima facie discloses cognizable offences against the petitioner and therefore, the prayer made to quash the FIR cannot be entertained in view of law laid down by Hon'ble Apex Court in the cases of State of Telangana Vs. Habib Abdullah Jellani reported in (2017) 2 SCC 779 and Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and Others reported in (2021) SCC Online SC 315 and as such, we are of the view that no interference is warranted.

4. However, considering the fact that all the offences, complained of, in the impugned FIR, are punishable with a term up to seven years, therefore, in case of effecting the arrest of the petitioner in pursuance of the impugned FIR, it is directed that the respondents authorities shall ensure that the specific provisions contained in Section 41(1)(b) and Section 41-A of CrPC/ Section 35(3) to 35(7) of Bhartiya Nagrika Suraksha Sanhita, 2023 and the guidelines issued by Hon'ble Apex Court in the case of Arnesh Kumar Vs. State of Bihar reported in (2014) 8 SCC 273 as well as the directions issued in judgement and order dated 28.01.2021 of this Court passed in Criminal Misc. Writ Petition No. 17732 of 2020 (Vimal Kumar and 3 Others Vs. State of U.P. and 3 Others) reported in 2021 (2) ACR 1147, be strictly complied with.

5. With the aforesaid observations, the instant writ petition stands disposed of.

Order Date :- 28.3.2025 Manish Himwan (Prashant Kumar,J.) (M.C. Tripathi,J.)