

Sunil Prasad And Another vs State Of U.P. Thru. Prin. Secy. Home ... on 20 February, 2025

Author: Vivek Chaudhary

Bench: Vivek Chaudhary

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:11188-DB

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 1524 of 2025

Petitioner :- Sunil Prasad And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko And Others

Counsel for Petitioner :- Gurucharan Kashyap, Shravan Kumar Tiwari

Counsel for Respondent :- G.A.

Hon'ble Vivek Chaudhary, J.

Hon'ble Syed Qamar Hasan Rizvi, J.

1. Heard learned counsel for the petitioners, learned A.G.A. appearing for the State/opposite parties and perused the record.

2. This petition seeks issuance of direction in the nature of certiorari for quashing the First Information Report lodged at Case Crime No. 0122 of 2024, under Section 351(3) and 352 B.N.S. registered at Police Station Kaiserbagh, Lucknow on 06.08.2024, lodged by the opposite party no.4.

3. Learned counsel for the petitioners has submitted that the offences as alleged in FIR have maximum punishment for the term less than seven years imprisonment, whereas, the police is trying to arrest him, which is against the mandates of Bhartiya Nyaya Sanhita, 2023.

4. Learned Additional Government Advocate appearing for respondent State has given a statement on behalf of investigating agency that because the offence allegedly committed by the petitioner, entails sentence of less than seven years, provisions of Section 35(3) of Bhartiya Nyaya Sanhita, 2023 shall be strictly followed in terms of judgment rendered by Hon'ble Supreme Court of India in a case reported in (2014) 8 SCC 273: Arnesh Kumar vs. State of Bihar and another.

5. Considering the stand of the investigating agency, learned counsel for the petitioners states that let this petition be disposed of in view of the above said facts.

6. Accordingly, this petition is disposed of in view of the provisions of Section 35(3) of Bhartiya Nyaya Sanhita, 2023 and the law as laid down by Apex Court in the case of Arnesh Kumar (supra).

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(Syed Qamar Hasan Rizvi, J.) (Vivek Chaudhary, J.) Order Date :- 20.2.2025 Muk