

# Jan Ali vs State Of U.P. Thru. Prin. Secy. Deptt. Of ... on 29 July, 2024

**Author: Vivek Chaudhary**

**Bench: Vivek Chaudhary**

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2024:AHC-LK0:51369-DB

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 5346 of 2024

Petitioner :- Jan Ali

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

Counsel for Petitioner :- Lal Bahadur Khan

Counsel for Respondent :- G.A.

Hon'ble Vivek Chaudhary,J.

Hon'ble Om Prakash Shukla,J.

1. Heard learned Counsel for the petitioner, learned Additional Government Advocate 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 impugned F.I.R. dated 12.07.2024, bearing FIR No.0350 of 2024, under Section 3/7 of Essential Commodities Act, Police Station Motipur, District Bahraich.

3. Learned Counsel for the petitioner 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 the State/opposite parties has given a statement on behalf of investigating agency that because the offence allegedly committed by the petitioners, 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 petitioner 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 Section 35(3) of Bhartiya Nyaya Sanhita, 2023 and the law as laid down by Apex Court in the case of Arnesh Kumar (supra).

(Om Prakash Shukla, J.) (Vivek Chaudhary, J.) Order Date :- 29.7.2024 Anand/-