

# **Anil Alias Anil Kumar vs State Of U.P. And 3 Others on 3 January, 2025**

**Author: Rajiv Gupta**

**Bench: Rajiv Gupta**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:1209-DB

Court No. - 46

Case :- CRIMINAL MISC. WRIT PETITION No. - 23849 of 2024

Petitioner :- Anil Alias Anil Kumar

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

Counsel for Petitioner :- Umesh Chandra Prajapati,Vinod Kumar

Counsel for Respondent :- G.A.

Hon'ble Rajiv Gupta,J.

Hon'ble Mohd. Azhar Husain Idrisi,J.

1. Heard learned counsel for the petitioner, learned AGA for the State and perused the record.

2. Although, the prayer made in this writ petition is to quash the FIR dated 30.11.2024 arising out of Case Crime No. 0300 of 2024, under Sections 296, 74, 352, 351(2) of Bhartiya Nyaya Sanhita, Police Station- Bivar, District- Hamirpur, but when the matter has been taken up, learned counsel for the petitioner has submitted that all the offences, complained of, are punishable up to seven years and therefore, before effecting the arrest of the petitioner, specific provisions contained in Section 35 of

Bharatiya Nagarik Suraksha Sanhita 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 the cognizable offence 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 case 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 7 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 35 of Bharatiya Nagarik Suraksha Sanhita 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 :- 3.1.2025 KU