

Pranjal Awasthi vs State Of U.P. And 2 Others on 2 January, 2025

Author: Rajiv Gupta

Bench: Rajiv Gupta

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:668-DB

Court No. - 46

Case :- CRIMINAL MISC. WRIT PETITION No. - 23670 of 2024

Petitioner :- Pranjal Awasthi

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Irshad Ahmad, Shamsul Islam Siddiqui, Shan Md

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 01.12.2024 arising out of Case Crime No. 0437 of 2024, under Sections 115(2), 352, 351(3) Bhartiya Nyaya Sanhita, 2023 and 3(1) (da), 3(1) (dha), 3(2) (va) SC/ST Act, Police Station- Hanumant Vihar, District- South (Commissionerate Kanpur Nagar), 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 :- 2.1.2025 Israr