

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9703 of 2024

Petitioner :- Hari Mohan Pandey And Others

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

Counsel for Petitioner :- Arun Kumar Tewari

Counsel for Respondent :- G.A.

Hon'ble Vivek Chaudhary,J.

Hon'ble Om Prakash Shukla,J.

1. *Vakalatnama* filed on behalf of opposite party no.4 by Shri Anand Pal Singh 'Vishen', Advocate, is taken on record.

2. Heard.

3. This petition seeks issuance of direction in the nature of certiorari for quashing the impugned F.I.R. dated 20.10.2024, bearing F.I.R./Case Crime No.357 of 2024, under Sections 191(2), 115(2), 352, 351(3), 110, 118, 117 (2) B.N.S., Police Station Nawabganj, District Gonda.

4. Learned counsel for the petitioners has submitted that the offences as alleged in F.I.R. have maximum punishment for the term less than seven years imprisonment, whereas, the police is trying to arrest them, which is against the mandates of Code of Criminal Procedure.

5. 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 petitioners, entails sentence of less than seven years, provisions of Section 35(3) of **Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)** 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.**

6. 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.

7. Accordingly, this petition is **disposed of** in view of the provisions of Section 35(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) and the law as laid down by Apex Court in the case of **Arnesh Kumar** (supra).

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(Om Prakash Shukla, J.) (Vivek Chaudhary, J.)

Order Date :- 19.12.2024

Ajit