2026:AHC-LKO:39601-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

CRIMINAL MISC. WRIT PETITION No. - 5230 of 2026

Shiv Kumar @ Shiv Kumar Yadav And Others
.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Deptt. Home Lko. And Others
.....Respondent(s)

Counsel for Petitioner(s)	:	Sushil Kumar Yadav
Counsel for Respondent(s)	:	G.A.

Court No. - 10

HON'BLE RAJNISH KUMAR, J.
HON'BLE MRS. BABITA RANI, J.

1. Heard Shri Sushil Kumar Yadav, learned counsel for the petitioners and learned A.G.A. for the State.

2. At the very outset, learned counsel for the petitioners submits that he does not want to press the prayer No.i for quashing the impugned F.I.R., therefore, this petition may be dismissed as not pressed in regard to the prayer No.i. To which, there is no objection by the learned A.G.A.

3. In view of above, the petition in regard to the prayer No.i is dismissed as not pressed. Now, learned counsel for the petitioners presses for prayer No.ii, which is quoted herein below:-

"ii. Issue a writ order or direction in the nature of mandamus commanding the respondent No.3 not to arrest the petitioner in Case Crime No.0083 of 2026, under Sections 115(2), 191(2), 191(3), 351(3), 352, 61(2) of the BNS, Police Station Sangramgarh, District Pratapgarh."

4. Learned counsel for the petitioners submits that the offences in the impugned F.I.R. carry punishment up to seven years but the police is harassing the petitioners and trying to arrest them, whereas in a case where the punishment is up to seven years, the provision of Section 35(3) of the Bhartiya Nagrik Suraksha Sanhita, 2023 is to be strictly followed in terms of judgments rendered by the Hon'ble Supreme Court in re; **Arnesh Kumar vs. State of Bihar and another, (2014) 8 SCC 273 and Satender Kumar Antil vs. CBI and another, Special**

Leave to Appeal (Criminal) No. 5191 of 2021 : (2022) 10 SCC 51.

5. Learned A.G.A. does not dispute the submissions of learned counsel for the petitioners that the offence mentioned in the impugned F.I.R. carry punishment less than seven years, therefore, he states that the provision of **Section 35(3) of the Bhartiya Nagrik Suraksha Sanhita, 2023** shall be strictly followed in terms of judgments rendered by the Hon'ble Supreme Court in re; **Arnesh Kumar (Supra)** and **Satender Kumar Antil (Supra)** and the question of arrest of the petitioners do not arise.

6. Accordingly, this petition is **disposed of** in view of the aforesaid statement of learned A.G.A.

May 29, 2026
S. Shivhare

(Mrs. Babita Rani,J.) (Rajnish Kumar,J.)

Digitally signed by :-
SHASHANK SHIVHARE
High Court of Judicature at Allahabad,
Lucknow Bench