HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

CRIMINAL MISC. WRIT PETITION No. - 5412 of 2026

Rohit (In Fir Rohit Kumar)

.....Petitioner(s)

Versus

State Of U.P Thru. Secy. Home Deptt. Lko. And Others

.....Respondent(s)

Counsel for Petitioner(s) : Atul Verma, Vinod Kumar Yadav
Counsel for Respondent(s) : G.A.

Court No. - 9

HON'BLE RAJESH SINGH CHAUHAN, J.
HON'BLE DIVESH CHANDRA SAMANT, J.

1. Heard Shri Vinod Kumar Yadav, learned counsel for the petitioner and Sri Aniruddh Singh, learned A.G.A. appearing for the State-opposite parties no.1 to 3 and perused the record.

2. In view of the proposed order, notice to opposite party no.4 is hereby dispensed with.

3. This petition seeks issuance of direction in the nature of certiorari for quashing the impugned F.I.R. bearing FIR/Case Crime No.85 of 2026, for the offence under Sections 351(3), 352 of B.N.S., Police Station- Asiwan, District- Unnao.

4. Learned counsel for the petitioner has submitted that the offences as alleged in the FIR have maximum punishment for the term less than seven years imprisonment, whereas the police is trying to arrest the petitioner, which is against the mandates of Bhartiya Nagrik Suraksha Sanhita.

5. Learned A.G.A. appearing for respondent-State has given a statement on behalf of investigating agency that because the offence allegedly committed by the petitioner entails sentence of less than seven years, provisions of Section 35(3) Bhartiya Nagrik Suraksha Sanhita, 2023 shall 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**.

6. 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.

7. Accordingly, this petition is **disposed of** in view of the provisions of **Section 35(3) Bhartiya Nagrik Suraksha Sanhita, 2023** and the law as laid down by the Apex Court in re; **Arnesh Kumar** (supra) and **Satender Kumar Antil** (supra).

8. It is needless to say that the Investigating officer shall carefully consider the material available on record and allegations so levelled inasmuch as the fair investigation is always expected from the investigating agency.

9. However, it is directed that the petitioner shall appear before the Investigating Officer of the concerned police station on 10.06.2026 between 11:00 AM to 04:00 PM for the purpose to cooperate in the investigation. Thereafter, he shall continue to cooperate in the investigation till its completion, failing which protection of this order may be withdrawn on the application being moved by the prosecution or the complainant.

(Divesh Chandra Samant,J.) (Rajesh Singh Chauhan,J.)

June 3, 2026
Karan

Digitally signed by :-
KARAN KUMAR RAO
High Court of Judicature at Allahabad,
Lucknow Bench