HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

CRIMINAL MISC. WRIT PETITION No. - 5682 of 2026

Arbaz Khan (Arrayed As Kasan @ Arbaz In Fir)

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Home Govt. Of U.P. Lko. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Nadeem Murtaza, Suryansh Singh Suryavanshi
Counsel for Respondent(s)	:	G.A.

Court No. - 2

HON'BLE SAURABH LAVANIA, J.
HON'BLE PRAMOD KUMAR SRIVASTAVA, J.

1. Heard learned counsel for the petitioners and learned AGA appearing on behalf of respondents no. 1 to 3.

2. Issue notice to respondent no. 4, returnable at an early date.

3. Steps be taken within a week.

4. All the respondents are granted four weeks time to file a counter affidavit. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

5. List thereafter alongwith Crl. Misc. Writ Petition No. - 4660 of 2026.

6. Under challenge is the First Information Report dated 17.08.2024, registered as Case Crime No. 307 of 2024 under Sections 318(4), 316(2), 191(2), 115(2), 352, 351(3) of B.N.S., 2023 at Police Station Bangarmau, District Unnao, a copy of which is annexed as Annexure 1 to the writ petition.

7. Contention of learned counsel for the petitioners is that a perusal of the offences as indicated in the impugned First Information Report shows that the same carry a sentence up to seven years; consequently, the petitioners would be entitled to the benefit of the judgment of the Apex Court in **Arnesh Kumar vs. State of Bihar and another- (2014) 8 SCC 273.**

8. However, during the course of investigation, the respondents have also added Sections 3, 5, 21 & 23 of the Banning of Unregulated Deposit Schemes Act, 2019 (in short Act, 2019), under which, as per Section 21(3) of the Act, 2019, the punishment is extendable up to ten years.

9. Placing reliance on Section 27 of the Act, 2019, learned counsel for the petitioners

argues that the said Act categorically provides that, notwithstanding anything contained in Section 4, no designated Court shall take cognizance of an offence punishable under that section except upon a complaint made by the regulator. The regulator is defined under Section 2(15) of the Act, 2019 as the regulator specified in column (2) of the First Schedule.

10. As per column (2) of the First Schedule, the regulator would be the Securities and Exchange Board of India/Reserve Bank of India.

11. Contention is that a specific averment has been made in paragraph 23 of the writ petition that no such complaint has been filed. It is further contended that once no such complaint has been submitted by the regulatory authority, there cannot be any occasion for the respondent authorities to invoke Sections 3, 5, 21 & 23 of the Act, 2019 consequently, once the said provisions cannot be invoked, the remaining offences against the petitioners all carry a sentence up to seven years, and thus the petitioners would be entitled to the benefit of the judgment of the Apex Court in **Arnesh Kumar (supra).**

12. On the other hand, learned AGA submits that although the aforesaid sections have been added in terms of Case Diary-7, there is nothing on record to indicate whether any complaint has been made by the regulator as required under the provisions of the Act, 2019.

13. Considering the aforesaid, a prima facie case for interference is made out. Accordingly, it is provided that, during the interregnum period, the petitioners shall be entitled to the benefit of the judgment of the Apex Court in **Arnesh Kumar (supra),** particularly as there is nothing on record to indicate how the provisions of the Act, 2019 have been added.

June 15, 2026
Haseenuddin

(Pramod Kumar Srivastava,J.) (Saurabh Lavania,J.)

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