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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 3781/2023, CRL.M.A. 27067/2025, CRL.M.A.
27087/2025

PAWAN SHARMA & ANR.

.....Petitioners

Through: In person.

versus

STATE OF NCT OF DELHI & ORS.

.....Respondents

Through: Ms. Rupali Bandhopadhyaya, ASC for
State with Mr. Abhijeet Kumar and
Ms. Amisha Gupta, Advocates.
Ms. Arpita Mishra, SI, PS-Vijay
Vihar.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **10.09.2025**

1. The present petition under Article 226 of the Constitution of India, 1950 read with Section 482 of the Code of Criminal Procedure, 1973¹ seeks the following reliefs:

- 1. Direct the respondents to expeditiously take necessary action against the accused persons and further submit the charge sheet regarding FIR No. 466/2023, 467/2023, and 472/2023.*
- 2. Direct the respondents to expeditiously take necessary measures towards safeguarding the life and liberty of the Petitioners and their children.*
- 3. Direct the respondents to investigate the case of FIR No. 466/2023 dated 11.11.2023, FIR No. 467/2023 dated 11.11.2023, and FIR No. 472/2023 dated 17.11.2023 fairly and impartially by an independent investigating agency or other district and not by PS Kanjhawala or under DCP/Rohini.*
- 4. Direct the Commissioner of Police to take disciplinary action against the officers I.O./Snehlata, Manoj Kumar, Ajender, IO Anil and other PCR Police Officials, SHO Anand Prakash, IO and ACP of DIU, Begampur and DCP Rohini.*
- 5. Direct the respondents to include appropriate sections of the Indian*

¹ "Cr.P.C."



Penal Code e.g. 354, 354A, 354B, 440, 307/120B of IPC in conjunction with Section 25 of the Arms Act in the context of FIR No. 466/2023 and 376(D)/458/354/354B/ 120B/292 of IPC in FIR 472/2023, to investigate the issue of conspiracy and direct the respondent to provide the preserve of Camera CCTV Footage of Kanjhawala Thana from dated 08.11.2023 to 17.11.2023 also.

6. Direct the I.O./Respondents to inspect the damaged property of Petitioners (car, bike gates, plot items, etc.)”

2. On 11th September, 2024, this Court recorded the State’s statement that charge-sheets had been filed in all the cases except FIR No. 466/2023, for which filing was imminent; and that protection had been provided to the Petitioners:

“1. Learned counsel for the respondent submits that they have filed the Status Report and the Charge Sheet has been filed in all the cases except FIR No. 466/2023, in which the Charge Sheet has been forwarded and is likely to be filed soon.

2. Learned Prosecutor further submits that the protection has already been provided to the petitioner.

3. Learned counsel for the petitioner submits that they have already approached the District Witnesses Protection Committee for providing protection.

4. List on 29.01.2025.”

3. Ms. Rupali Bandhopadhyay, ASC for the State, states that final report under Section 173 CrPC in FIR No. 466/2023 also stands filed. To that extent, the relief sought by the Petitioners directing filing of charge-sheets, stand duly addressed.

4. Heard. The present writ petition under Article 226 of the Constitution of India seeks multiple directions relating to the investigation of FIRs registered against the accused persons, including transfer of investigation, inclusion of specific penal provisions, arrest of accused, and disciplinary action against police officials.

5. Article 226 undoubtedly vests this Court with wide powers. However, such powers are exercised with judicial restraint. The High Court does not



ordinarily supervise investigations, as the Cr.P.C. provides a comprehensive framework to address grievances regarding the quality or fairness of investigation. Where allegations of perfunctory or biased investigation are made, the appropriate recourse lies under Section 156(3) Cr.P.C. (pre-cognizance) or Section 173(8) Cr.P.C. (post-report), either at the instance of the investigating agency or on the direction of the Magistrate.

6. The Supreme Court in ***Sakiri Vasu v. State of U.P.***² has clarified that Article 226 is not a substitute for these statutory mechanisms. The writ jurisdiction is reserved for rare cases of manifest illegality, deliberate inaction, or palpable miscarriage of justice, not for dissatisfaction with investigative outcomes.

7. The prayer for transfer of investigation to another agency, whether the CBI or a different district police, cannot be granted on the basis of vague allegations or dissatisfaction with the local police. The Supreme Court in ***State of W.B. v. Committee for Protection of Democratic Rights***³ and ***Pooja Pal v. Union of India***,⁴ has held that such transfers are warranted only in exceptional cases where the investigation is demonstrably tainted or public confidence in its fairness is irreparably eroded. In the present case, the investigation has culminated in the filing of charge-sheets under Section 173 Cr.P.C., which are pending before the Trial Court. To direct a re-investigation by another agency, at this stage, would be an extraordinary measure, permissible only where the investigation is shown to be hopelessly compromised or *mala fide*. The Code itself provides a calibrated mechanism under Section 173(8) Cr.P.C. for further investigation, should new material

² (2008) 2 SCC 409.

³ (2010) 3 SCC 571.

⁴ (2016) 3 SCC 135.



emerge or the Trial Court deem it necessary.

8. The prayer for inclusion of specific penal provisions in the FIRs or charge-sheets is also misconceived. An FIR is merely the initial information that sets the criminal law in motion; it is not expected to catalogue every offence. The determination of applicable legal provisions is within the domain of the investigating agency and the prosecution, subject to judicial scrutiny at the stage of cognizance or framing of charge. The Petitioners retain the right to urge the Trial Court to consider addition or alteration of charges under Section 216 Cr.P.C., based on the material before it. If the Petitioners seek further evidence to be collected or additional investigative angles to be explored, they may move the Trial Court for appropriate directions, including: further investigation under Section 173(8) Cr.P.C.; summoning of documents or CCTV footage under Section 91 Cr.P.C.; and summoning of material witnesses under Section 311 Cr.P.C.

9. The grievance that charge-sheets have been filed without arrest does not disclose any legal infirmity. Arrest is not a matter of course and must satisfy the statutory thresholds under Section 41 Cr.P.C. In appropriate cases, the investigating officer may issue a notice of appearance under Section 41A Cr.P.C. The Supreme Court, in *Arnesh Kumar v. State of Bihar*,⁵ has underscored the need for restraint in arrest.

10. As regards the grant of bail in offences under Section 376 IPC and other serious charges, the Petitioners' remedy lies in challenging the bail order or seeking its modification before the concerned court.

11. The demand for disciplinary action against named officers is also untenable. The initiation of departmental proceedings falls within the

⁵ (2014) 8 SCC 273.



domain of the competent disciplinary authority or the Police Complaints Authority, as laid down in *Prakash Singh v. Union of India*.⁶ A writ of mandamus cannot be issued to punish officers on contested allegations, without a due inquiry. However, the Petitioners are at liberty to submit a detailed representation to the appropriate authority, which shall be considered, in accordance with law.

12. On the issue of life and liberty, the State has submitted that protection is already in place. In view of the Petitioners' apprehensions, the District Witness Protection Committee shall consider any pending request of the Petitioners. Interim protection, if already operating, shall continue until such decision is taken. The Petitioners may renew their request if circumstances change, and any fresh application shall be decided expeditiously.

13. In light of the foregoing, this Court finds no ground to interfere under Article 226. The Petitioners have adequate remedies under the Cr.P.C. and may pursue them before the Trial Court.

14. The writ petition is accordingly dismissed, along with all pending applications.

SANJEEV NARULA, J

SEPTEMBER 10, 2025

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⁶ (2006) 8 SCC 1.