2026:AHC:207612-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 4939 of 2025

Mukesh Kumar

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ambikesh Dhar Dubey, Manoj Kumar
Counsel for Respondent(s)	:	G.A.

With

Criminal Misc. Writ Petition No. 3725 of 2025
Neelam Yadav Vs. State of U.P. and 2 Others
Court No. - 47

HON'BLE RAJEEV MISRA, J.
HON'BLE JAI KRISHNA UPADHYAY, J.

1. Case called out in the revised list. No one appears on behalf of petitioners to press the present writ petitions, even though the names of Mr. Manoj Kumar and Ambikesh Dhar Dubey are duly published in the cause list as counsel for petitioners. Learned AGA representing the State respondents 1 and 2 is present.

2. Perused the record.

3. Petitioners have approached this Court by means of the aforesaid mentioned criminal miscellaneous writ petitions, challenging the FIR dated 04.02.2025, lodged by first informant, respondent 3, Sanjay Prasad, and registered as Case Crime No. 104 of 2025, under Section 103 (1) of the B.N.S., 2023, Police Station Gulriha, District Gorakhpur.

4. Present writ petition came up for admission on 18.03.2025, and this Court passed the following order:-

"1. Learned counsel for the petitioner has placed heavy reliance on order dated 05.03.2025 passed by Co-ordinate Bench in Crl. Misc. Writ Petition No.3725 of 2025 (Neelam Yadav vs. State of U.P. and others) and submitted that main allegation is against co-accused Neelam Yadav, who has been accorded interim relief by the Co-ordinate Bench. In the aforesaid backdrop, he prayed for extending similar indulgence to the petitioner.

2. On the request of learned A.G.A., the matter is adjourned for enabling him to get appropriate instructions. The instructions is to be obtained in the light of observations made by Co-ordinate Bench vide order dated 05.03.2025 in Crl. Misc. Writ Petition No.3725 of 2025.
3. Put up on 25.03.2025 as fresh."

5. Connected writ petition i.e. Criminal Misc. Writ Petition No. 3725 of 2025 came up for admission on 05.03.2025, and this Court passed the following order:-

"1. Supplementary affidavit filed today is taken on record.
2. Heard Mr. Girish Pandey, Advocate holding brief of Mr. Manoj Kumar, learned counsel for the petitioner and learned A.G.A. for the State.
3. The present writ petition has been preferred for quashing the FIR dated 04.02.2025 registered as Case Crime No.104 of 2025, under Section 103(1) of B.N.S. at Police Station- Gulriha, District- Gorakhpur, against the petitioner and for a direction upon the respondents not to arrest the petitioner pursuant to aforesaid FIR.
4. The allegation against the petitioner is of committing murder of the deceased. Learned counsel for the petitioner submits that F.I.R. has been lodged after five months of incident and from the F.I.R. itself it is clear that no such allegation has been made against the petitioner. It is only alleged that the mobile phone of the deceased was unlocked after taking the finger print of the petitioner and she has been implicated on the basis of suspicion only.
5. The matter requires consideration.
6. Issue notice to the opposite party No.3, returnable at an early date.
7. Steps be taken within a week.
8. All the respondents may file counter affidavit within four weeks. The petitioner will have two weeks, thereafter, to file rejoinder affidavit.
9. List this case after six weeks.
10. Till the next date of listing or till the cognizance taken on the police report under Section 173(2) Cr.P.C./193(3) B.N.S.S., by the court below, whichever is earlier, the petitioner shall not be arrested pursuant to the impugned F.I.R., provided he cooperates with the investigation in question. "

6. Upon perusal of order sheets, we find that no interim protection was granted by this Court in favour of petitioners in this writ petition. Moreover, a period of more than 1 year and 7 months have rolled by. Therefore, in all probability, the investigating officer, upon completion of statutory investigation of concerned Case Crime Number, in terms of Chapter XIII BNSS, must have submitted the requisite report as provided under Section 193 (3) BNSS. We are, therefore, of the view that by efflux of time, the present writ petitions have been rendered

infructuous. They are, accordingly, **dismissed** as having rendered infructuous.

7. Interim order, if any, stands vacated.

October 5, 2026
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(Jai Krishna Upadhyay,J.) (Rajeev Misra,J.)

Digitally signed by :-
ASHOK KUMAR TRIPATHI
High Court of Judicature at Allahabad