2026:AHC:208822

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 18818 of 2026

Pawan Giri

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Uttar Kumar Goswami
Counsel for Opposite Party(s)	:	G.A.

Court No. - 73

HON'BLE DR. GAUTAM CHOWDHARY, J.

1. The present application u/s 528 BNSS has been filed for quashing of charge sheet dated 27.11.2022, cognizance/ summoning order dated 16.10.2023 as well as entire proceeding of Criminal Case No. 7240 of 2023, State Vs. Pawan Giri and another, arising out of Case Crime No. 180 of 2020, under Section 3/7 of Essential Commodities Act, Police Station Kotwali Dehat, District Bulandshahr. Further prayer has been made for quashing of bailable warrant dated 31.10.2025 issued against the applicant in the aforesaid case.

2. Counsel for the applicant confines his arguments to the first part of the submission that the impugned cognizance/ summoning order is bereft of application of mind and has been passed on the cyclostyled copy. He thus argues that the summoning order suffers from the vice of non-application of mind and therefore is liable to be set aside on that ground alone. In support of his submission, he placed reliance on the judgment of the Supreme Court in the case of **Megh Nath Gupta & another Vs. State of U.P. and another, 2008 (62) ACC 826** as well as Single Judge judgment and order passed by this Court in the case of **Ankit Vs. State of U.P. and another [(2009) (9) ADJ 778]** on an **Application No. 19647** of 2009 filed under Section 482 CrPC on 15.10.2009. He, thus, argues that the summoning order is liable to be set aside in view of the well settled law of this Court. He also placed before me several orders passed by this Court whereby similar orders have been set aside by this Court and the matters have been remanded before the Trial Court for fresh orders in accordance

with law.

3. A perusal of the cognizance/ summoning order impugned in the present proceeding clearly demonstrates that there was no application of mind whatsoever prior to the passing of the summoning order, which has been repelled by this Court in various judgments.

4. In view of the categorical pronouncements of this Court, the impugned order dated 27.11.2022 passed by Additional Chief Judicial Magistrate, Court No. 1, Bulandshahr, is set aside and the matter is remanded before the concerned Magistrate for passing fresh orders of summoning and cognizance if it deems fit.

5. Consequently, the application is allowed in part and the impugned order dated 27.11.2022 is set aside in terms of the order passed above.

6. Let a copy of this order be sent to the court concerned for its compliance, as stated above.

(Dr. Gautam Chowdhary,J.)

October 6, 2026
Mustaqeem.

Digitally signed by :-
MOHD MUSTAQEEM KHAN
High Court of Judicature at Allahabad