2026:AHC:210965

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 37941 of 2026

Shri Kant @ Kanta

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Azhar Hussain, Mohd Ghufran Hasan
Counsel for Opposite Party(s)	:	G.A.

Court No. - 75

HON'BLE SANJAY KUMAR PACHORI, J.

Sri Azhar Hussain, learned counsel for the applicant and Sri A.K. Rai, learned A.G.A. for the State are present.

The present application under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 has been filed to quash the order dated 7.3.2008 passed in Session Trial No. 530 of 2003, arising out of case crime No. 305 of 2003, under Sections 364, 394, 302, 201, 411, 120-B, I.P.C. and Section 2/3 of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station Sadabad, District Hathras, pending in the court of Special Judge (Gangster Act), Hathras, whereby Non Bailable Warrant has been issued against the applicant.

Learned counsel for the applicant pointed out that impugned F.I.R. has been lodged for the offence punishable under I.P.C. as well as U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986 together.

It is further submitted that the applicant was on bail at the time of issuing of Non-Bailable Warrant. It is further submitted that the impugned order has been passed without satisfying itself that the summon and other process for attendance has been served. It is further submitted that the impugned order has been passed without considering the position of law. It is settled position of law that N.B.W. should be issued as a last resort after the litigant fails to respond the notices/summons and bailable warrant. It is further submitted that non-bailable warrant has been issued without issuing any summon and bailable warrant.

Learned A.G.A. has opposed the application.

Considering submissions of learned counsel and perusing record, the instant application under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 is finally disposed of with a direction that in case applicant appears before the court below within three weeks from today and applies for bail/recall of non bailable warrant, his application shall be decided in the light of the observations made in the judgments rendered by the Supreme Court in **Satender Kumar Antil Vs. Central Bureau of Investigation & Another, (2021) 10 SCC 773, Siddharth Vs. The State of Uttar Pradesh & Another 2022 (11) SCC 676 and Aman Preet Singh Vs. C.B.I. through Director 2021 SCC Online SC 941.**

For a period of three weeks from today or till applicant appears before the court below, whichever is earlier, execution of non bailable warrant against applicant shall be kept in abeyance.

October 8, 2026
T. Sinha

(Sanjay Kumar Pachori,J.)

Digitally signed by :-
TRIPTI SINHA
High Court of Judicature at Allahabad