2026:AHC:210155-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 22838 of 2026

Rohit Saini

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Munna Tiwari
Counsel for Respondent(s)	:	G.A., Lokesh Kumar Mishra

Court No. - 48

HON'BLE CHANDRA DHARI SINGH, J.
HON'BLE TARUN SAXENA, J.

1. The instant writ petition has been filed seeking following main reliefs:-

"(i) Issue a writ, order or direction in the nature of certiorari quash the impugned First Information Report dated 03.08.2026 registered as Case Crime No.0379 of 2026, under Section 316(2), 351(2) B.N.S., Police Station-Gagaha, District-Gorakhpur (Annexure No.1 to this Writ Petition).

(ii) Issue a writ, order or direction in the nature of mandamus directing the respondents not to arrest the petitioner in pursuance of the impugned First Information Report dated 03.08.2026 registered as Case Crime No.0379 of 2026, under Section 316(2), 351(2) B.N.S., Police Station-Gagaha, District-Gorakhpur."

2. Learned counsel appearing on behalf of petitioner after some length of arguments on merits made an innocuous prayer that before arresting the petitioner police may be directed to follow the principle laid down by Hon'ble Apex Court in the case of ***Arnesh Kumar Vs. State of Bihar*** reported in ***(2014) 8 SCC 273***.

3. *Per contra*, learned A.G.A. appearing on behalf of State and

learned counsel appearing on behalf of respondent no. 3 vehemently opposed the petition on merits but they have no objection to the innocuous prayer made by learned counsel for the petitioner.

4. Heard Mr. Sandeep Kumar Singh, learned Advocate appearing on behalf of the petitioner, Mr. Rizwan Ahmed, learned A.G.A. appearing on behalf of the State, Mr. L.K. Mishra, learned counsel appearing on behalf of the respondent no. 3 and perused the record.

5. Taking into consideration the submissions and prayer made by learned counsel for the petitioner and no objection by learned A.G.A. as well as learned counsel for the respondent no. 3 on innocuous prayer made by learned counsel for the petitioner, we are inclined to allow the innocuous prayer made by learned counsel for the petitioner.

6. The writ petition is disposed of with a direction to the authorities concerned to ensure the procedure of arrest as per the guidelines of the Supreme Court enshrined in the case of ***Arnesh Kumar Vs. State of Bihar*** reported in ***(2014) 8 SCC 273 and provision of Section 35(3) of B.N.S.S.***

(Tarun Saxena,J.) (Chandra Dhari Singh,J.)

October 7, 2026
Saurabh

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