HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 42927 of 2026

Shivam

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Yashwant Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 75

HON'BLE SANJAY KUMAR PACHORI, J.

Compliance affidavit filed today, which is taken on record.

Sri Yashwant Singh, learned counsel for the applicant and Sri Ashwani Kumar Rai, learned A.G.A. for the State are present.

The present application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita has been filed to quash the entire proceedings of Special Case No. 2262 of 2023, arising out of Case Crime No. 261 of 2023, under Sections 323, 376, 506 of I.P.C. and Section 7/8 of POCSO Act, Police Station- Mangalpur, District- Kanpur Dehat, as well as cognizance/ summoning order dated 07.11.2023 as well as order dated 08.04.2026 whereby non-bailable warrant has been issued against the applicant, pending in the Court of Special Judge (POCSO Act), Additional Sessions Judge, Court No. 13, Kanpur Dehat.

Learned A.G.A. pointed out that statement of first informant (brother of the victim) has been recorded before the trial court and the case is related to POCSO Act and the trial is on advance stage.

Learned counsel for the applicant does not want to press the relief of entire proceedings of the case and the said relief is dismissed as not pressed.

So far as concerned the order dated 08.04.2026, earned counsel for the applicant submits 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 29, 2026
Ishan

(Sanjay Kumar Pachori,J.)

Digitally signed by :-
ISHAN JAISWAL
High Court of Judicature at Allahabad