2026:AHC:210587-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 24352 of 2026

Kanti Devi And 5 Others

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Anup Dhar Dubey, Pradeep Kumar Shukla, Yash Kesarwani
Counsel for Respondent(s)	:	G.A.

Court No. - 48

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

1. The present writ petition has been preferred with the following main reliefs:-

"Issue a writ order or direction in the nature of Certiorari, quashing the impugned first information report dated 31.8.2026 as Case Crime No. 0040 of 2026, under Sections 308, 351(3) of Bhartiya Nyay Sanhita (B.N.S.), 2023, Police Station -Mahila Thana, District Gorakhpur (Annexure no. 1 to this writ petition).

(ii) Issue a writ order or direction in the nature of mandamus commanding the respondent nos. 2 and 3 not to arrest the petitioners in pursuance of the first information report dated 31.8.2026 as Case Crime No. 0040 of 2026, under Sections 308, 351(3) of Bhartiya Nyay Sanhita (B.N.S.), 2023, Police Station -Mahila Thana, District Gorakhpur (Annexure no. 1 to this writ petition)."

2. Learned counsel appearing on behalf of petitioners after some length of arguments on merits made an innocuous prayer that before arresting the petitioners 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 the State vehemently opposed the petition on merits but he has no objection to the

innocuous prayer made by learned counsel for the petitioners.

4. Heard learned counsel appearing on behalf of the petitioners, Mr. S.K. Ojha, learned A.G.A. appearing on behalf of the State and perused the record.

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

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
Atul

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