



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO(S). _____ OF 2025
(Arising out of SLP (Crl.) No(s).17464-17465 of 2025)

SANJAY KUMAR GUPTA APPELLANT(S)

VERSUS

STATE OF U.P. & ORS. ETC.RESPONDENT(S)

O R D E R

1. Leave granted.
2. Heard learned counsel for the parties at length and have perused the material on record.
3. The instant appeals by special leave have been filed by the complainant for assailing two orders passed by the High Court of Judicature at Allahabad¹ in Criminal Miscellaneous Writ Petition No.12631 of 2025 dated 16th June, 2025 titled “Brij Mohan

¹ Hereinafter, being referred to as “High Court.”

Sharma and Ors. v. State of U.P. and Ors.” and Criminal Miscellaneous Writ Petition No.13829 of 2025 dated 15th July, 2025 titled “Rajendra Kumar Gupta v. State of U.P. and Ors.”.

4. The Division Bench of the High Court while dealing with the aforesaid criminal writ petitions preferred by the accused persons, i.e., the private respondents herein, seeking quashing of the First Information Report (FIR) No.249 of 2025 registered at Police Station Chhata, District Mathura for the offences punishable under Sections 316(2), 318(4), 338, 336(3), 340(2), 61(2), 351(2) and 3(5) of Bhartiya Nyaya Sanhita, 2023, passed the following orders: -

“Criminal Miscellaneous Writ Petition No.12631 of 2025 dated 16th June, 2025

1. Heard learned counsel for the petitioner, Sri Sanjay Kumar Gupta, learned counsel for respondent no. 4 and learned AGA for State-respondents.

2. The present writ petition has been preferred with the prayer to quash the impugned First Information Report dated 09.05.2025 registered as Case Crime No. 0249 of 2025, under Sections 316(2), 318(4), 338, 336(3), 340(2), 61(2), 351(2), 3(5) of B.N.S.,

2023, Police Station- Chhata, District- Mathura, and for a direction to the respondents not to arrest the petitioner in pursuance of impugned First Information Report.

3. With regard to the allegations made in the F.I.R., investigating officer of the police is investigating the matter.

4. After hearing the rival contentions, totality of facts and circumstances of this case and in view of the judgment passed by Division Bench of this Court in Criminal Misc. Writ petition No. 7463/2024 (Shobhit Nehra Vs. State of U.P.), the above noted writ petition is disposed of directing the investigating officer to conclude the investigation of this case within period of 90 days.

5. During the period of investigation and till cognizance is taken on the police report by the court concerned, the petitioner/petitioners shall not be arrested.

6. In case of non-cooperation with the police investigation by the petitioner/petitioners, it shall be open for either of the respondents to file recall application of this order.

Criminal Miscellaneous Writ Petition No.13829 of 2025 dated 15th July, 2025

1. Heard learned counsel for the petitioner, Sri Saksham Srivastava, appearing for respondent no.4 and learned AGA for State- respondents.

2. The present writ petition has been preferred with the prayer to quash the impugned First Information Report dated 09.05.2025, registered as Case Crime No.0249 of 2025, under Sections 316(2), 318(4), 338, 336(3), 340(2), 61(2), 351(2) and 3(5) of Bhartiya Nyaya Sanhita, 2023, Police Station- Chhata, District-Mathura, and for a direction to the respondents not to arrest the petitioners in pursuance of impugned First Information Report.

3. With regard to the allegations made in the F.I.R., investigating officer of the police is investigating the matter.

4. After hearing the rival contentions, totality of facts and circumstances of this case and in view of the judgment passed by Division Bench of this Court in Criminal Misc. Writ petition No.7463/2024 (Shobhit Nehra Vs. State of U.P.), the above noted writ petition is disposed of directing the investigating officer to conclude the investigation of this case within period of 60 days.

5. During the period of investigation and till cognizance is taken on the police report by the court concerned, the petitioner shall not be arrested.

6. In case of non-cooperation with the police investigation by the petitioner, it shall be open for either of the respondents to file recall application of this order.

[Emphasis supplied]

5. Having given our thoughtful consideration to the submissions advanced at bar and after going through the impugned orders (*supra*), we find that the orders passed by the High Court in the petitions seeking quashing of the FIR, in the manner indicated above are a stark example in self-contradiction.

6. The High Court refused to exercise its jurisdiction for quashing of the FIR and yet granted a blanket protection from arrest to the accused

persons, i.e., the private respondents herein, till after filing of the charge sheet which, in our opinion, has caused a grave prejudice to the investigation of the case. There is neither any logic nor any rationale behind such direction.

7. It cannot be denied that provisions of pre-arrest bail are applicable in the State of Uttar Pradesh. Hence, any person accused of an offence if desirous of seeking such protection would be required to avail the appropriate remedy by approaching the competent Sessions Court at the first instance. To grant the relief of pre-arrest bail in a criminal writ petition while refusing to exercise jurisdiction to quash the proceedings is totally unacceptable and impermissible as has been held by this Court in the case of ***Neeharika Infrastructure (P) Ltd. v. State of Maharashtra***, reported in (2021)19 SCC 401.

“**22.** As observed by this Court in Hema Mishra v. State of U.P. [Hema Mishra v. State of

U.P., (2014) 4 SCC 453 : (2014) 2 SCC (Cri) 363], though the High Courts have very wide powers under Article 226, the powers under Article 226 of the Constitution of India are to be exercised to prevent miscarriage of justice and to prevent abuse of process of law by the authorities indiscriminately making pre-arrest of the accused persons. It is further observed that in entertaining such a petition under Article 226, the High Court is supposed to balance the two interests. On the one hand, the Court is to ensure that such a power under Article 226 is not to be exercised liberally so as to convert it into Section 438CrPC proceedings. It is further observed that on the other hand whenever the High Court finds that in a given case if the protection against pre-arrest is not given, it would amount to gross miscarriage of justice and no case, at all, is made for arrest pending trial, the High Court would be free to grant the relief in the nature of anticipatory bail in exercise of its powers under Article 226 of the Constitution of India, keeping in mind that this power has to be exercised sparingly in those cases where it is absolutely warranted and justified. However, such a blanket interim order of not to arrest or “no coercive steps” cannot be passed mechanically and in a routine manner.

23. So far as the order of not to arrest and/or “no coercive steps” till the final report/charge-sheet is filed and/or during the course of investigation or not to arrest till the investigation is completed, passed while dismissing the quashing petitions under Section 482 CrPC and/or under Article 226 of the Constitution of India and having opined that no case is made out to quash the FIR/complaint is concerned, the same is wholly impermissible.”

[Emphasis supplied]

8. In this background, we are of the firm view that the impugned orders do not stand to scrutiny and are unsustainable on the face of the record.

9. In view of the aforesaid discussion, we set aside the impugned orders dated 16th June, 2025 and 15th July, 2025 passed by the High Court, and remit the matter to the High Court for fresh consideration of the quashing petitions on merits. The parties are directed to appear before the High Court on 7th January, 2026. The High Court shall consider the petitions afresh and decide the same as per law without being prejudiced by any of the observations made in this Order or any other previous proceedings.

10. Interim stay/protection as had been granted to the private respondents will continue to remain in force till the pendency of the petition(s) before the High Court.

11. The High Court shall make an endeavour to decide the petition(s) as expeditiously as possible and preferably within a period of four months from 7th January, 2026.

12. The appeals are disposed of, in the manner indicated above.

13. Pending application(s), if any, shall stand disposed of.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI;
DECEMBER 01, 2025.