



2025:AHC-LKO:62802-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. WRIT PETITION No. - 9244 of 2025

Ek Lakh Ali @ Ekhlakh And Others

.....Petitioner(s)

Versus

State Of U.P. Thru. Secy. Home Lko. And Others

.....Respondent(s)

Counsel for Petitioner(s) : Zia Ur Rehman, Ateeq Ahmad Ansari
Counsel for Respondent(s) : G.A.

Court No. - 9

**HON'BLE RAJESH SINGH CHAUHAN, J.
HON'BLE AMITABH KUMAR RAI, J.**

1. Heard Sri Zia-Ur-Rehman, learned counsel for the petitioners, Ms. Divya Gupta, learned Additional Government Advocate appearing for the State-opposite parties No.1 to 3 and perused the record.
2. In view of the order proposed to be passed, notice to opposite party no.4 is hereby dispensed with.
3. By means of this writ petition, the petitioners seek issuance of direction in the nature of certiorari for quashing the impugned First Information Report (in short F.I.R.) dated 07.09.2025 bearing FIR/Case Crime No.0450 of 2025 for the offence punishable under Sections 191(1), 115(2), 352, 351(3) & 324(2) of Bharatiya Nyaya Sanhita, 2023 and Sections 3(1) (r), 2(1) (s) & 3(2) (va) of S.C./S.T. Act, Police Station-Motipur, District-Bahraich, so far as it relates to the present petitioners, which is contained as Annexure No.1 to the writ petition, in the interest of justice.
4. Before parting with, noticing the fact that the petitioner No.3 (Danish S/o Sri Akbar Ali) and the petitioner No.6 (Jinat D/o Sri Ekhlakh) are 13 years and 11 years of age respectively but they have been implicated as accused, therefore, the Superintendent of Police, District-Bahraich is instructed to go through the aforesaid fact carefully and if those minors have been falsely implicated, the appropriate order may be passed against the erring police officials.
5. Learned counsel for the petitioners has submitted that the offences as alleged in the First Information Report have maximum punishment for the term less than seven years imprisonment, whereas, the police is trying to arrest them, which is against the mandates of Bhartiya Nagrik Suraksha Sanhita.
6. Learned Additional Government Advocate appearing for State-opposite parties has given a statement on behalf of Investigating Agency that because the offence allegedly

committed by the petitioners, entails sentence of less than seven years, provisions of Section 35(3) Bhartiya Nagrik Suraksha Sanhita, 2023 shall be strictly followed in terms of judgments rendered by the Hon'ble Supreme Court in re; ***Arnesh Kumar vs. State of Bihar and another, (2014) 8 SCC 273, and Satender Kumar Antil vs. CBI and another, Special Leave to Appeal (Criminal) No. 5191 of 2021: (2022) 10 SCC 51.***

7. Considering the stand of the Investigating Agency, learned counsel for the petitioners states that let this petition be disposed of in view of the above said facts.

8. Accordingly, this petition is ***disposed of*** in view of the provisions of Section 35(3) Bhartiya Nagrik Suraksha Sanhita, 2023, and the law as laid down by the Apex Court in re; ***Arnesh Kumar (supra)*** and ***Satender Kumar Antil (supra)***.

9. However, it is directed that the petitioner Nos.1, 2, 4 & 5 shall appear before the Investigating Officer of the concerned police station on 16.10.2025 at 11:00 AM sharp for the purpose to cooperate in the investigation. Thereafter, they shall continue to cooperate in the investigation till its completion, failing which, protection of this order may be withdrawn on the application being moved by the prosecution or the complainant.

10. It is observed that since the dictum of Apex Court in re: ***Stender Kumar Antil (supra)*** is law of land, therefore, all the concerned must follow the same in its letter and spirit and any disobedience of this dictum is tantamount to contempt of court. Hence, the petitioners may not be unnecessarily harassed, if they respond to the notice being issued by the concerned Investigating Officer to cooperate in the investigation.

11. Let copy of this order be provided to the Superintendent of Police, District-Bahraich by the Registry of this Court within three working days for its compliance.

October 10, 2025
Suresh/

(Amitabh Kumar Rai,J.) (Rajesh Singh Chauhan,J.)