



2026:AHC-LKO:41471-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. WRIT PETITION No. - 5649 of 2026

Divyansh @ Sunil Chaturvedi

.....Petitioner(s)

Versus

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

.....Respondent(s)

Counsel for Petitioner(s)	: Ajay Veer Singh
Counsel for Respondent(s)	: G.A., Anubhav Awasthi, Manoj Kumar Mishra, Pankaj Kumar, Vinayak Tiwari

Court No. - 2

**HON'BLE SAURABH LAVANIA, J.
HON'BLE PRAMOD KUMAR SRIVASTAVA, J.**

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

"I. Issue a writ order or direction in the nature of certiorari to quash the First Information Report dated 21.05.2026 registered as Case Crime No. 365 of 2026, under Sections 115(2), 109(2), 309(4) B.N.S., Police Station-Kotwali Ayodhya, District- Ayodhya. (Contained as Annexure No. 01 to this Writ Petition)

II. To issue a writ, order or direction to stay the action/inaction bearing First Information Report dated 21.05.2026 registered as Case Crime No. 365 of 2026, under Sections 115(2), 109(2), 309(4) B.N.S., Police Station-Kotwali Ayodhya, District- Ayodhya. (Contained as Annexure No. 01 to this Writ Petition) ."

3. From a perusal of the impugned F.I.R., it appears that on the basis of the allegations made therein a, prima facie, cognizable offence is made out against the petitioners, so the relief as claimed by the petitioners in the present petition cannot be granted under Article 226 of the Constitution of India.

4. Hon'ble Supreme Court in the case of **Somjeet Mallick versus State of Jharkhand and Others :2024 INSC 772** has held as under:

"18. It is trite law that FIR is not an encyclopedia of all imputations. Therefore, to test whether an FIR discloses commission of a cognizable offence what is to be looked at is not any omission in the accusations but the gravamen of the accusations contained therein to find out whether, prima facie, some cognizable offence has been committed or not. At this stage, the Court is not required to ascertain as to which specific offence has been committed. It is only after investigation, at the time of framing charge, when materials collected during investigation are before the Court, the Court has to draw an opinion as to for commission of which offence the accused should be tried. Prior to that, if satisfied, the Court

may even discharge the accused. Thus, when the FIR alleges a dishonest conduct on the part of the accused which, if supported by materials, would disclose commission of a cognizable offence, investigation should not be thwarted by quashing the FIR."

5. From a perusal of the judgment of the Hon'ble Supreme Court in the case of Somjeet Mallick (supra), it emerges that when an FIR discloses the commission of a cognizable offence, what is required to be looked at is the gravamen of the accusations contained therein to ascertain whether, prima facie, a cognizable offence has been committed or not. At this stage, the Court is not required to determine as to which specific offence has been committed. Thus, when the FIR alleges a cognizable offence on the part of the accused, the investigation should not be thwarted by quashing the FIR.

6. Even otherwise, Hon'ble Supreme Court in the case of Sanjay Kumar Gupta Vs. State of U.P and others 2025 Live Law (SC) 1170 has held that where a cognizable offence is made out from the perusal of the FIR, the High Courts are not expected to interfere.

7. For convenience, the observations of the Hon'ble Supreme Court of India in the case of Sanjay Kumar Gupta (supra) are reproduced as under (paragraph 6 and 7) :-

"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."

8. Further, recently the Apex Court in the case of **Accamma Sam Jacob vs. The State of Karnataka and others- 2026 INSC 362** has reiterated that while exercising jurisdiction under Article 226 of the Constitution of India, the High Courts are not expected to undertake a detailed appreciation of evidence or conduct a roving enquiry into the truthfulness of the allegations made in the F.I.R. It has been held that where the allegations, taken at their face value, disclose the commission of a cognizable offence, investigation should not be stifled at its threshold, and interference at the initial stage is not warranted except in exceptional cases falling within the well-settled parameters laid down by the Hon'ble Supreme Court.

9. Accordingly, keeping in view the law laid down by the Hon'ble Apex Court in the case of **Sanjay Kumar Gupta (supra), Somjeet Mallick (supra), Muskan (supra) as well as in the case of Accamma Sam Jacob** and considering the facts available on record as well as the contents of the FIR, it is apparent that a cognizable offence is made out against the petitioners and thus there is no question of any interference in the impugned FIR.

10. Keeping in view the aforesaid discussion, the writ petition is **dismissed**.

June 18, 2026
Haseenuddin

(Pramod Kumar Srivastava,J.) (Saurabh Lavania,J.)