



2026:AHC-LKO:3942-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 9470 of 2025

S.I. (Civil Police) Sandeep Baliyan

.....Petitioner(s)

Versus

State Of U.P. Thru. Its Prin. Secy. Home Deptt.
Lko. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Deepak Singh, Manish Kumar Srivastava
Counsel for Respondent(s)	: C.S.C., Shikhar Anand

Court No. - 1

HON'BLE RAJAN ROY, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

1. Heard.

2. By means of this petition, the petitioner has challenged an order dated 03.07.2025 passed by U.P. Public Services Tribunal, Indira Bhawan, Lucknow in Claim Petition No.642 of 2023 by which the claim petition of the petitioner challenging the order of censure which is a minor punishment under the Uttar Pradesh Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991 has been dismissed.

3. On the last date i.e. 25.08.2025, we had passed the following order:-

"1. Heard.

2. Considering the assertion of the petitioner that he being In-charge of the police chowki was well within his rights to enlarge the concerned on bail under Section 436 Cr.P.C. as he was accused of a bailable offence and had been arrested without warrant and the accused was also entitled to such bail, we stay the impugned judgment and order of censure.

3. Let counter affidavit be filed in the matter within four weeks.

4. Rejoinder affidavit, if any, be filed within two weeks thereafter.

5. List thereafter. "

4. In response, an affidavit has been filed by the State reiterating what has been stated in the punishment order. It has been stated that since the accused Nasir and Raees were arrested without a warrant, therefore, the power to grant bail under Section 436 Cr.P.C. automatically ends. It was improper to grant bail from the police station in the crime bearing Case Crime No.13/2022 under Section 4/25 Arms Act and Case Crime No.41/2022 under Section-4/25 Arms Act against the aforesaid two accused for keeping illegal knife. Raees was a history sheeter and should not have been bailed out from the police station. The matter was not brought to the notice of Supervising Officer Sri Ajendra Yadav, Circle Officer, Sadar Saharanpur, therefore, the officer did not discharge his duties properly.

5. Section 436 Cr.P.C. reads as under:-

" 436. In what cases bail to be taken.- (1) When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceeding before such Court to give bail, such person shall be released on bail :

Provided that such officer or Court, if he or it thinks fit, may, [and shall, if such person is indigent and is unable to furnish surety] instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided: [Ins. by Act 25 of 2005, Section 35(a) (w.e.f. 23-6-2006).]

[Explanation.-Where a person is unable to give bail within a week of the date of his arrest, it shall be a sufficient ground for the officer or the Court to presume that he is an indigent person for the purposes of this proviso.][Ins. by Act 25 of 2005, Section 35(b) (w.e.f. 23-6-2006).]

Provided further that nothing in this Section shall be deemed to affect the provisions of sub-Section (3) of Section 116 [or section 446-A] [Added by Act 63 of 1980, Section 4 (w.e.f. 23-9-1980).].

(2) Notwithstanding anything contained in sub-section (1), where a person has failed to comply with the conditions of the bail bond as regards the time and place of attendance, the Court may refuse to release him on bail, when on a subsequent

occasion in the same case he appears before the Court or is brought in custody and any such refusal shall be without prejudice to the powers of the Court to call upon any person bound by such bond to pay the penalty thereof under Section 446.

STATE AMENDMENTS

UTTAR PRADESH.- In Section 436 of the said Code, in sub-section (1), in the first proviso for the word "discharge" the word "release" shall be substituted. [U.P. Act 1 of 1984 S.10 w.e.f. 1.5.1984]"

6. On being asked to demonstrate as to where is the legal bar not to release a person accused of an offence under Section 4/25 Arms Act which is a bailable offence under Section 436 Cr.P.C., if he is a history-sheeter, none could be shown to us nor is there any such provision mentioned in the affidavit filed by the State. We do not find any such condition in Section 436 Cr.P.C. We also asked learned counsel for the State to kindly demonstrate the legal requirement for the petitioner to have informed Supervising Officer referred hereinabove before exercising his powers under Section 436 Cr.P.C., no circular etc could be shown to us wherein such officers may have been advised to inform the higher officer. None has been annexed with the affidavit of the State authorities. None is mentioned in the judgment of the tribunal. Recitals in the counter affidavit are contrary to express provisions contained in Section 436 Cr.P.C.

7. Purely in the facts and circumstances, we find that the tribunal has erred in passing the impugned judgment. We, accordingly, quash the impugned judgment as also the order of punishment dated 04.10.2022 and the appellate order dated 16.01.2023.

8. We, accordingly, **allow** this writ petition as also the claim petition.

(Abdhesh Kumar Chaudhary,J.) (Rajan Roy,J.)

January 19, 2026
Shanu/-