



2026:AHC-LKO:22450-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. WRIT PETITION No. - 2605 of 2026

Nand Kumar And Others

.....Petitioner(s)

Versus

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

.....Respondent(s)

Counsel for Petitioner(s)	:	Neeraj Pandey
Counsel for Respondent(s)	:	G.A.

Court No. - 11

HON'BLE ABDUL MOIN, J.

HON'BLE PRAMOD KUMAR SRIVASTAVA, J.

1. Heard learned counsel for the petitioners and learned A.G.A. appearing on behalf of the respondents No.1 to 3.
2. No notice be issued to respondent no.4 taking into consideration the nature of order proposed to be passed.
3. Under challenge is the F.I.R. 15.01.2026 bearing F.I.R. / Case Crime No.0014 of 2026, under Sections 333, 109, 308(2), 115(2), 352, 351(3) of B.N.S., 2023, P.S. Gurbuxganj, District Raebareli.
4. The contention of learned counsel for the petitioners is that apart from the allegations as levelled in the impugned FIR being patently false the other grounds are that (a) no case under Section 109 of BNS 2023 is made out against the petitioners, (b) no injury has been suffered by the complainant, (c) no firearm injury has been indicated, (d) no CCTV footage has been indicated despite the complainant having CCTV installed in her house, and (e) earlier the petitioners themselves had lodged an FIR on 14.01.2026 vide FIR No.12 at Police Station Gurbuxganj, District Raebareli.
5. No other ground has been taken by the petitioners.
6. The aforesaid grounds as raised by the learned counsel for the petitioners are patently fallacious, misconceived and are accordingly

rejected. The reasons are not far to seek. The Hon'ble Apex Court in the case of **Muskan vs. Ishaan Khan (Sataniya) and others; 2025 INSC 1287**, has held that the Courts are not expected to hold a mini trial in order to verify the allegations which have been levelled in the FIR.

7. For the sake of convenience, relevant observations of the Hon'ble Supreme Court in the case of **Muskan (Supra)** is reproduced below:-

"We are of the view that the High Court has erred in law by embarking upon an enquiry with regard to credibility or otherwise of the allegations in the complaints and the FIR. Normally, for quashing an FIR, it must be shown that there exists no prime facie case against the accused persons. In the present case, from the conjoint reading of the complaints and the FIR, it can be seen that prime facie allegations of harassment and demand of dowry are made out, despite that the High Court quashed the FIR against the private respondents primarily on the ground that the earlier two complaints that were filed by the appellant did not mention the specific instances that happened on 22.07.2021 and 27.11.2022 and the same were later on mentioned in the FIR only as an afterthought and was a counterblast to the legal notice sent by respondent no.1/husband to the appellant as she was not coming back to her matrimonial home. This approach adopted by the High Court, in our considered opinion, amounts to conducting a mini trial."

8. 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."

9. 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.

10. 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.

11. 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."

12. 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)** as well as in the case of **Muskan (supra)** 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 there is no question of any interference in the impugned FIR as consideration of

the grounds as raised by the learned counsel for the petitioners would tantamount to holding a mini trial.

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

(Pramod Kumar Srivastava,J.) (Abdul Moin,J.)

March 31, 2026

A. Katiyar