



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. WRIT PETITION No. - 989 of 2026

Abdul Salam And Others

.....Petitioner(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. Lko. And
Others

.....Respondent(s)

Counsel for Petitioner(s)

: Shashank Tilhari

Counsel for Respondent(s)

: G.A., Ashish Raman Mishra

Court No. - 10

**HON'BLE RAJNISH KUMAR, J.
HON'BLE ZAFEEER AHMAD, J.**

1. Counter affidavit to the affidavit filed by respondent no.4 and Mukti Narayan on 17.02.2026 filed by learned AGA is taken on record.
2. Heard Sri Shashank Tilhari, learned counsel for the petitioners, learned AGA and Sri Ashish Raman Mishra, learned counsel for the respondent no.4.
3. This petition has been filed challenging the F.I.R. vide Case Crime No.0002/2026, under Sections 191(1), 103(1), 238, 352 BNS(146, 302, 201 and 504 IPC respectively) and 3(2)(v), 3(1)(da) and 3(1)(dha) SC/ST Act, Police Station Sujaoli, District Bahraich along with the order dated 10.12.2025 passed by the court of Special Judge(SC/ST) Act, Bahraich in Misc. Case No.578/12/2025.
4. Learned counsel for the petitioners submits that the impugned F.I.R. has been lodged on the basis of wrong and concocted story. He submits that on account of illegal cutting of trees on 14.08.2025 at about 3:30 in the morning, one Mukti Narayan was arrested by the petitioners, whereas six other persons had absconded. A range case was accordingly lodged against Mukti Narayan and others including the respondent no.4. It is further submitted that the respondent no.4, after 5 days of the incident, made a complaint to the Superintendent of Police, Bahraich on 18.08.2025, stating therein that his father had gone with Mukti Narayan

son of Govardhan Yadav on 13.08.2025 at about 5:00 in the evening by boat to see his agricultural field and while returning from there, he used to bring timbers from the forest but on the said date, the employees of the forest department, namely, Nabi, Yogesh Pratap Singh alongwith unknown persons got apprehended him from the bank of river Ghagra near the agricultural field and it came to be known that the employees of the forest department had beaten and fired upon them. Thereafter, another complaint was made and ultimately he filed an application under Section 173(3) on 30.09.2025 before the learned Special Judge for lodging F.I.R. In the meantime, Mukti Narayan, who was arrested by the police department, was released on bail by means of the order dated 16.10.2025 passed by this Court, contained in Annexure No.11 to the petition.

5. It is further submitted that thereafter, after about one month, Mukti Narayan filed an affidavit dated 19.11.2025 in the proceedings under Section 173(4) BNS instituted by the respondent no.4 vide Case No.578/11/2025 before the learned Special Judge, stating therein that he had gone with his friend Rambali on 13.08.2025 at about 5:00 in the evening to see their agricultural fields and while returning they took timber from the Mahaura forest near the Ghagra river, when suddenly the employees of the forest department started indiscriminate firing, on account of which, Rambali sustained gun shot injury and fell on the spot and he was arrested by the employees of the forest department and the body of Ram Bali was vanished by them. The officers of the forest department threatened him that if he would tell the incident to anybody, then he will have to face the consequences similar to Ram Bali. The concerned police station also submitted a report in those proceedings which was contradictory, therefore, considering the same, the learned Magistrate directed to register the F.I.R. and accordingly the F.I.R. has been registered, which has been challenged in this petition.

6. He further submits that in view of above, in fact, the impugned F.I.R. has been lodged on the statement given by Mukti Narayan, but his statement under Section 180 B.N.S.S., 2023 has still not been recorded by the Investigating Officer. However, his conduct shows that he has taken contrary stand at different places. Though, he has filed an affidavit before the aforesaid court and took stand in the bail application filed before the

concerned trial court that he was arrested by the employees of the forest department but not disclosed that Ram Bali was with him and he has been shot by the employees of the forest department, and before this Court also in the bail application, he has not stated that Ram Bali was with him, but took a contrary stand than the stand taken in the bail application in the trial court that he was arrested from his house and his false arrest has been shown from the spot. The affidavit before this Court was filed by the father of Ram Bali, which was on personal knowledge of the father and considering the same, he has been enlarged on bail by this Court.

7. He further submits that the petitioners are the forest range officers and fall in the category of public servant, therefore, the learned Special Judge could not have directed lodging the F.I.R. without prior sanction under Section 218 of BNSS 2023. Even otherwise, submission is that no such incident had occurred and the petitioners have not fired upon anybody. He further submits that he is ready to cooperate in the investigation. In support of his arguments, he relies on **Anil Kumar and others versus M.K. Aiyappa and Another; 2023 10 SCC 705.**

8. On the basis of above, he submits that Mukti Narayan could not have been with Ram Bali on the date of incident, which can be inferred from the aforesaid facts. He further submits that no such incident had happened and the allegations are false and Ram Bali was not on the spot on the date of incident and no bullet was fired by the petitioners. However, the F.I.R. has been lodged at the behest of Mukti Narayan, who has a criminal history of similar cases, on account of which he is inimical towards the employees of the forest department, which he has admitted in one of the aforesaid affidavits.

9. He further submits that Ram Bali has no agricultural field near the place of the alleged incident and he resides about 6 kms. away from the said place and the complainant had also filed an affidavit in which he had admitted that the agricultural field was prior to the forest and his house was prior to that about 6 kms away.

10. He further submits that learned AGA, on the basis of instructions, had submitted that the agricultural field of the respondent no.4 is about 8 kms.

away from the forest and his house is also 5-6 kms. away from his agricultural field on the opposite side of forest, therefore, the allegations made in the F.I.R. are wrong because a person who was returning from his field could not have reached to the forest which was on the opposite side. He also submits that the statement of Mukti Narayan has also not been recorded by the Investigating Officer till date, in regard to which an affidavit was filed by the respondent no.4 and Mukti Narayan yesterday disclosing that on 13.02.2026 the statement was recorded by the Circle Officer i.e. the Investigating Officer. However, the Investigating Officer had denied himself who was present before this Court yesterday and today he has also filed an affidavit denying it. Thus, the submission is that it is a matter of enquiry because two contrary affidavits have been filed by the complainant as well by the Circle Officer as to what is the correct position. In any case, the submission is that in view of the aforesaid facts and circumstances, the averments made in the F.I.R. cannot be said to be correct and no offence can be said to have been committed by the petitioners as alleged in the impugned F.I.R., therefore, the same is liable to be quashed.

11. Learned counsel for the respondent no.4 vehemently opposed the submissions of learned counsel for the petitioners. He submits that the F.I.R. has rightly been lodged in accordance with law and indisputably the father of the respondent no.4 is missing till date because the police has not been able to search him, even after lodging of the F.I.R., which was lodged on 04.01.2026. He also submits that the contention of learned counsel for the petitioners and learned AGA that the agricultural field of the father of the respondent no.4 is about 8 kms. away from the forest is incorrect because it is adjacent to the forest and about 2-3 kms. from the place of incident. Accordingly on the basis of averments in the F.I.R. that he had gone to the forest while returning, it cannot be inferred at this stage that he could not reach at the place of incident, particularly when Mukti Narayan has been arrested from that place and has given an affidavit before the court of law to this effect. So far as the contradictions in the affidavits filed in support of the bail applications of Mukti Narayan are concerned, he submits that those affidavits have been filed by the pairokar of Mukti Narayan, therefore, merely on the basis of such

affidavits, no action can be taken against him. He further submits that in the instant case, no sanction was required. In any case, it would be required at the stage of trial because the conduct of the petitioners is not in discharge of official duties. Thus, the submission is that the impugned F.I.R. cannot be quashed. He also submits that he is ready to cooperate in the investigation. He placed reliance on **Inspector of Police and Another versus Battenapatla Venkata Ratnam and Another; (2015) 13 SCC 87**

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12. Learned AGA also vehemently opposed the submissions of learned counsel for the petitioners. He submits that the impugned F.I.R. has rightly been lodged in accordance with law and there is no illegality or error in it. He further submits that in regard to the contradiction on account of non recording of the statement of Mukti Narayan and the allegations made by the complainant i.e. respondent no.4 in regard to 13.02.2026, the same are wrong and false and an affidavit has been filed declining the same and placing on record documentary evidence to the effect that the brother Guddu of Mukti Narayan had met to the Investigating Officer, when he had gone to the house of Mukti Narayan to record his statement but he was not present, therefore, the notice under Section 179 of BNS 2023 was received by him to get his statement recorded within two days but till date he has not come before the officer to get his statement recorded. He further submits that the sanction is required at the stage of trial. However, the conduct of the petitioners cannot be said to be in discharge of official duties. He relies on **Robert Lalchungnunga Chngthu alias R.L. Chongthu versus State of Bihar; 2025 SCC 2511.**

13. In regard to the contradiction in report in proceedings under Section 173(4) B.N.S.S., 2023, he submits that the Circle Officer has recommended for preliminary inquiry in the matter.

14. The matter requires consideration.

15. Let counter affidavit be filed within a period of two weeks.

16. A week's time thereafter shall be available to the learned counsel for the petitioners to file rejoinder affidavit.

17. Till the next date of listing or any incriminating evidence is found against the petitioners, whichever is earlier, no coercive action shall be taken against them. However, the petitioners shall cooperate in investigation and shall appear before the Investigating Officer on 23.2.2026 and continue to co-operate in investigation.
18. It is further provided that in view of the contradictions in regard to the recording of statements of Mukti Narayan on 13.02.2026 in the affidavit filed by the complainant, Mukti Narayan and the Circle Officer/Investigating Officer, the matter shall be placed before the Senior Superintendent / Superintendent of Police, Bahraich for an inquiry into the matter and submit a report by the next date.
19. Learned A.G.A. may also advise the concerned officer appropriately in regard to the bail obtained by Mukti Narayan and the different affidavits filed by him before the Trial Court as well as this Court.
20. Needless to say that looking to the facts and circumstances of the case, the Investigating Officer is expected to investigate the matter fairly and impartially expeditiously.
21. List in the week commencing 16.03.2026.

(Zafeer Ahmad,J.) (Rajnish Kumar,J.)

February 18, 2026

Akanksha Sri/-