



**HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW**

**CRIMINAL MISC. WRIT PETITION No. - 907 of 2026**

Arpit Tiwari

.....Petitioner(s)

Versus

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

.....Respondent(s)

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Counsel for Petitioner(s) : Akhand Kumar Pandey, Abhishek Singh,  
Gautam Singh Yadav  
Counsel for Respondent(s) : G.A.

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**Court No. - 10**

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

**1.** Heard Shri Akhand Pratap Pandey, learned Counsel for the petitioner and learned A.G.A. for the State.

**2.** This petition seeks issuance of direction in the nature of certiorari for quashing the impugned F.I.R. bearing FIR No.0269 of 2025, under Sections 61(2), 109(1), 115(2), 324(4), 351(3), 352, 117(2), 191(2), 191(3), 61(2)(a) and 3 (5) of B.N.S., 2023, Police Station Tarun, District Ayodhya insofar as it relates to the petitioner.

**3.** This Court had passed the following order on 09.02.2026 :-

*"1. Heard Sri Abhishek Singh, learned counsel for the petitioner and learned AGA for the State.*

*2. Learned counsel for the petitioner submits that on account of some altercation with respondent no. 5 who is presently posted as Sub-Inspector, P.S. Tarun, District Ayodhya on 5.9.2002, he is being implicated in repeated offences while he was not named in the same and he has also been implicated in the FIR No. 0269 dated 8.12.2025 on the behest of respondent no. 5.*

*3. As prayed, a week's time is granted to the petitioner to file an affidavit disclosing the details of the cases registered against the petitioner.*

*4. List on 16.2.2026 in terms of the previous order.*

**4.** Thereafter, on 16.02.2026, this Court had passed the following order :-

*" 1. Learned Counsel for the petitioner has filed supplementary affidavit, which is taken on record.*

*2. Learned A.G.A., on the basis of instructions, submits that complicity of the petitioner in crime, prima facie, has been found. He prays for and is allowed 24 hours' time to produce*

case dairy. He may also seek instructions in regard to the contents of the supplementary affidavit filed today on behalf of the petitioner.

3. List/put up tomorrow i.e. 17.02.2026."

5. On 17.02.2026, learned A.G.A. submitted that during investigation, Sections 117 (2), 191(2), 191(3), 61(2)(a) and 3(5) of BNS have been added, therefore, an application for amendment of the writ petition was filed by learned Counsel for the petitioner, which was allowed by means of order dated 18.02.2026 and, accordingly, aforesaid newly added sections have been added by counsel for the petitioner in the prayer clause.

6. Thereafter, on 23.02.2026, this Court had passed the following order :-

*"1. Heard Sri Abhishek Singh, learned counsel for the petitioner and learned A.G.A. for the State.*

*2. Learned counsel for the petitioner submits that he has amended the petition in compliance of the previous order. He further submits that he has alleged the mala fide of the respondent no. 5 in the petition and this Court had granted time to give the details of the cases registered against the petitioner on the behest of respondent no. 5. This Court had also granted time to learned A.G.A. to seek instruction for the said point but till date nothing has been pointed out by the learned A.G.A. Learned counsel for the petitioner also submits that he has made a representation to various authorities including the Investigating Officer but till date the same has also not been considered.*

*3. Learned A.G.A. on the basis of instructions submits that the complicity of the petitioner has been found in the incident as there is telephonic call and whats-app chat between the accused who committed the crime on the spot and the petitioner who may be at Surat at that time, however he could not get instructions in regard to the mala fide and only submits that no allegation of mala fide has been alleged in the representation.*

*4. Learned A.G.A. prays for and is granted a week's further time to seek complete instructions into the matter and also as to whether the CDR of the petitioner and the accused persons have been collected or not and, if yes, what is the outcome of it shall also be specifically brought on record.*

*5. List on 9.3.2026 in terms of the previous order."*

7. Learned Counsel for the petitioner submits that in view of the arguments recorded in the aforesaid orders, it is apparent that the name of the petitioner has surfaced on the confessional statement of co-accused, which is not admissible under law. He further submits that at the relevant point of time, the petitioner was in Surat. Nothing has been pointed out by the learned A.G.A. in regard to mala fide alleged by the petitioner. Thus, the impugned F.I.R. is not sustainable against the petitioner.

8. *Per contra*, learned A.G.A. has vehemently opposed the submissions of learned Counsel for the petitioner. However, he could not dispute that the

name of the petitioner has surfaced on the confessional statement of co-accused and since a WhatsApp call was made by the petitioner from his mobile, the Call Data Record (CDR) could not be procured. He further submits that the allegations of mala fide are premature and not tenable at this stage, as the investigation is still going on. He relied on **Union of India and another Versus W.N. Chadha**; 1993 SCC (Cri) 1171.

**9.** The matter requires consideration.

**10.** Issue notice to opposite parties no.4 and 5. Steps be taken within one week.

**11.** Let counter affidavit be filed within a period of three weeks. Rejoinder affidavit may be filed within one week thereafter.

**12.** List in the week commencing 13.04.2026.

**13.** Till the next date of listing, no coercive action shall be taken against the petitioner in connection with the impugned F.I.R., subject to his co-operation in the investigation. The petitioner shall appear before the Investigating Officer on 15.03.2026 and shall continue to co-operate in the investigation as and when requires, failing which this interim order may be vacated.

**March 11, 2026**

Ajit

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