

**Court No. - 9**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 5457 of 2024

**Petitioner :-** Aakash

**Respondent :-** State Of U.P Thru. Prin. Secy. Home Lko. And Others

**Counsel for Petitioner :-** Krishna Gopal

**Counsel for Respondent :-** G.A.

**Hon'ble Vivek Chaudhary,J.**

**Hon'ble Narendra Kumar Johari,J.**

Heard learned counsel for the petitioner, learned A.G.A. appearing for the State/opposite parties and perused the record.

This petition seeks issuance of direction in the nature of certiorari for quashing the impugned F.I.R. dated 3.7.2024, bearing Case Crime No.403/2024, for the offence under Sections 316(2), 115, 352, 125 of B.N.S., registered at Police Station Ram Nagar, District Barabanki.

Learned counsel for the petitioner has submitted that the offences, as alleged, in FIR have maximum punishment for the term less than seven years imprisonment, whereas, the police is trying to arrest him, which is against the mandates of Code of Criminal Procedure.

Additional Government Advocate appearing for respondent State has given a statement on behalf of investigating agency that because the offence allegedly committed by the petitioner, entails sentence of less than seven years, provisions of Section 35(3) BNSS shall be strictly followed in terms of judgment rendered by Hon'ble Supreme Court of India in a case reported in (2014) 8 SCC 273: **Arnesh Kumar vs. State of Bihar and another.**

Considering the stand of the investigating agency, learned counsel for the petitioner states that let this petition be disposed of in view of the above said facts.

Accordingly, this petition is **disposed of** in view of the provisions of Section 35(3) BNSS and the law as laid down by Apex Court in the case of **Arnesh Kumar (supra)**.

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**(Narendra Kumar Johari, J.)      (Vivek Chaudhary,J.)**

**Order Date :-** 31.7.2024

AKK