

**Court No. - 46**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 11375 of 2025

**Petitioner :-** Asif

**Respondent :-** State Of Uttar Pradesh And 2 Others

**Counsel for Petitioner :-** Asheesh Kumar Tripathi, Shikhar Awasthi

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

**Hon'ble Rajiv Gupta, J.**

**Hon'ble Harvir Singh, J.**

1. Heard learned counsel for the petitioner, learned AGA for the State and perused the record.
2. Although, the prayer made in this writ petition is to quash the FIR dated 3.2.2025 arising out of Case Crime No. 0006 of 2025, under Sections 318(4), 319(2) of B.N.S. and Section 66D of the Information Technology (Amendment) Act, 2008, Police Station- Cyber Crime, District- Gautam Buddha Nagar, but when the matter has been taken up, learned counsel for the petitioner has submitted that all the offences, complained of, are punishable up to seven years and therefore, before effecting the arrest of the petitioner, specific provisions contained in Section 35 of Bharatiya Nagarik Suraksha Sanhita be strictly complied with in view of law laid down by Hon'ble Apex Court in several judgments.
3. We have perused the FIR, which prima facie discloses the cognizable offence against the petitioner and therefore, the prayer made to quash the FIR cannot be entertained in view of law laid down by Hon'ble Apex Court in the case of **State of Telangana Vs. Habib Abdullah Jellani reported in (2017) 2 SCC 779 and Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and Others reported in (2021) SCC Online SC 315** and as such, we are of the view that no interference is warranted.
4. However, considering the fact that all the offences, complained of in the impugned FIR, are punishable with a term up to 7 years, therefore, in case of effecting the arrest of the petitioner in pursuance of the impugned FIR, it is directed that the respondents/ authorities shall ensure that the specific provisions contained in Section 35 of Bharatiya Nagarik Suraksha Sanhita and the

guidelines issued by Hon'ble Apex Court in the case of **Arnesh Kumar Vs. State of Bihar reported in (2014) 8 SCC 273** as well as the directions issued in judgement and order dated 28.01.2021 of this Court passed in **Criminal Misc. Writ Petition No. 17732 of 2020 (Vimal Kumar and 3 Others Vs. State of U.P. and 3 Others) reported in 2021 (2) ACR 1147** and further directions issued by the Hon'ble Apex Court in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation and Another** vide order dated 21.01.2025 be strictly complied with.

5. With the aforesaid observations, the instant writ petition stands **disposed of.**

**Order Date :- 30.5.2025**

KU