

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Writ Petition No.216 of 2024

Mahant Sukdev Muni

.....Petitioner

Versus

State of Uttarakhand & others

.....Respondents

Mr. Gopal K. Verma and Mr. Rajat Joshi, Advocates for the petitioner.

Mr. S.C. Dumka, AGA with Ms. Sweta B. Dobhal, Brief Holder for the State.

Mr. Piyush Garg, Advocate for respondent no.5-CBI.

Judgment reserved on 30.07.2025

Judgment delivered on 29.10.2025

Hon'ble Pankaj Purohit, J. (Oral)

By means of this writ petition, the petitioner is seeking the following reliefs:-

“(i) Issue a writ, order or direction in the nature of Mandamus directing the respondent no.5 to initiate investigation of the matter relates to FIR No.255/2017, under Section 365 IPC, P.S. Kankhal, District Haridwar dated 17.09.2017 and conduct the fair investigation and submit its progress report before this Hon’ble Court.

(ii) Issue a writ, order or direction in the nature of Mandamus directing the respondent no.4 to hand over the entire records of the matter relates to FIR No.255/2017, under Section 365 IPC, P.S. Kankhal, District Haridwar dated 17.09.2017 to the respondent no.5.”

2. The facts in brief are that on 16.09.2017 Mahant Shri Panchayati Akhara Bada Udasin Rajghat Kankhal who was also the national spokesperson of the Akhara Parishad started his journey from Haridwar to Mumbai by Lok Manya Tilak Express Train and was travelling in seat No.21 (A-1). The train journey started at 8:00 P.M. from Haridwar. When train reached at Bhopal Railway Station, one of the disciples

came to the aforesaid seat to serve him food, but could not find the Mahant and even after, multiple efforts, Mahant was nowhere to be found. Thereafter, a police complaint was lodged with the Police Station Kankhal, which was registered as FIR No.255 of 2017, under Section 365 IPC. Thereafter, S.P., Haridwar constituted six teams for searching the missing person and CCMPM Railways was also involved. But even after five months of lodging of the FIR, his whereabouts were not found and thereafter, the I.O. filed a final report in the court of Judicial Magistrate, but the Judicial Magistrate rejected the final report and directed reinvestigation. But even after eight months of the said direction, neither the investigation was completed nor any progress report was filed. The petitioner having no other option filed an application before the Court to call the progress report from the I.O., the I.O. hurriedly without proper investigation filed the progress report. On the basis of which, the learned Judicial Magistrate without applying judicial mind disposed of the matter and confined the records to the record room.

3. Feeling aggrieved by the said order, the petitioner filed a revision before the learned court of IVth Additional Sessions Judge, Haridwar who in turn allowed the revision and set aside the order passed by the learned Judicial Magistrate and remanded the matter back to him. The learned Judicial Magistrate sought further progress report from the Investigating Officer who again did not either file any progress report or initiate any investigation. Even after, lapse of seven years, no conclusive report has been submitted by the Investigation Officer. Hence, this writ petition.

4. Learned counsel for the petitioner submits that even after lapse of seven years, the Investigation Agency of the State have not reached to any conclusion and the entire investigation has been done in a very careless manner which is evident from the fact that the mobile phone of the Mahant was recovered from one Ravi Kumar S/o Bhole Ram, but the Investigating Officer did not interrogate him regarding the whereabouts of Mahant. The State is only time and again transferring the investigation from one I.O. to another, but no conclusion is arrived till now.

5. Learned counsel for the petitioner submits that the Hon'ble Apex Court in catena of cases has opined that fair and proper investigation is right of every citizen, therefore, to protect the rights enshrined under Articles 14 and 21, it is expedient that the investigation be transferred to CBI.

6. The Investigating Officer by way of compliance affidavit submitted that the investigation is recently transferred to CBCID vide letter dated 21.10.2023 and the Investigation Officer after going through the records has sent the progress report to the State.

7. Respondent no.5 by means of his counter affidavit submits that the State is carrying on the investigation with utmost seriousness and the State Agencies have made sincere efforts to trace the missing Mahant. It is also submitted that respondent no.5 i.e. CBI is already flooded with multiple cases and cases of the present nature need not be transferred to them. It is also submitted that the Hon'ble Supreme Court

in the case of Himanshu Kumar and others vs. State of Chhattisgarh, 2022 SCC OnLine SC 884 has held that the extraordinary power of the court to transfer the cases to CBI should be exercised sparingly and in exceptional situation.

8. The petitioner by means of the rejoinder affidavit submitted that in the instant case the situation is very grave as a missing report was lodged on 17.09.2017, but even after eight years the investigation has not been concluded and the investigation is only being handed over by one agency to another by the State. Therefore, it is in the interest of justice that the matter be transferred to CBI.

9. Having heard the learned counsel for the parties and after perusal of the record, the conscience of this Court is particularly shaken by the fact that a citizen of this country is missing since eight years and the Investigating Agencies have not been able to trace his whereabouts. Therefore, this Court is of the considered opinion that the investigation be transferred to Special Agency like CBI so that whereabouts of missing Mahant could be found out. This Court is particularly conscious of the fact that Article 21 of the Constitution which is one of the fundamental rights enshrined in part-III of the constitution declares that no person shall be deprived of his life or personal liberty except in accordance with procedure established by law. In various judgments, the Hon'ble Supreme Court has held that the words "life" and "personal liberty" used in Article 21 include all the varieties of "life" which go on to make the personal liberties of man and not merely the right to the continuance of a person

animal existence. Therefore, this Court is of the considered opinion that it is expedient in the interest of justice that whereabouts of the missing Mahant be inquired into by CBI.

10. Accordingly, the present writ petition is allowed with the aforesaid directions. The respondent no.5-CBI shall be transmitted all the records of investigation so far done pursuant to the FIR No.255 of 2017, under Section 365 IPC dated 17.09.2017 registered with P.S. Kankhal Haridwar forthwith, by the respondents/State Authorities.

(Pankaj Purohit, J.)
29.10.2025

Ravi