



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. WRIT PETITION No. - 8574 of 2025

Shyam Sundar @ Shyam Sundar Agrahari

.....Petitioner(s)

Versus

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

.....Respondent(s)

Counsel for Petitioner(s) : Shivendra S Singh Rathore, Bhavesh
Chandel, Sachin Upadhyay

Counsel for Respondent(s) : G.A., Kajal Soni, Onkar Singh, Rajesh
Kumar, Reeta Singh, Vinod Tiwari

Court No. - 11

HON'BLE ABDUL MOIN, J.

HON'BLE MRS. BABITA RANI, J.

1. Heard learned counsel for the petitioner and learned AGA for the State-respondent.

2. At the very outset, learned AGA points out that the present writ petition has been filed for quashing of First Information Report dated 6.9.2025 registered as Case Crime No. 0241 of 2025 under Section 109 of BNS, 2023 lodged at Police Station Motigarpur, District Sultanpur and a charge sheet dated 14.11.2025 has been submitted in the matter before the court concerned as per the specific averments made in paragraph 8 of the personal affidavit dated 24.11.2025.

3. However, the matter involves certain disturbing aspects which are required to be indicated. Certain earlier orders passed by this Court which contain the facts of the case are essential to be reproduced and are being reproduced below:-

1. Heard.

2. This Court has passed the order dated 09.09.2025, which reads as under:-

"1.Learned counsel for the petitioner pressing urgency in the matter has obtained permission from the Court Yesterday i.e. 08.09.2025 for taking up this case today, therefore, this case is being taken up today.

2.Heard Shri Shivendra Shivam Singh Rathore, learned counsel for the petitioner, Dr. V.K. Singh, learned Government Advocate with Shri G.D. Bhatt, learned Additional Government Advocate for the State and Shri Harsh Dwivedi, learned counsel who has filed Vakalatnama on behalf of opposite party No.5. The same is taken on record.

3. By means of this writ petition, the petitioner has prayed for the following reliefs-

"(1) to issue a writ, order or direction in the nature of certiorari quashing the impugned First Information Report (in short F.I.R.) bearing Case Crime No.0241 of 2025 registered on 06.09.2025, under Sections 109 of Bharatiya Nyaya Sanhita, 2023, Police Station-Motigarpur, District-Sultanpur (contained herewith as Annexure No.1).

(2) to issue a writ, order or direction in the nature of certiorari quashing the entire criminal proceedings arising out of impugned First Information Report bearing Case Crime No.0241 of 2025 registered on 06.09.2025, under Sections 109 of Bharatiya Nyaya Sanhita, 2023, Police Station-Motigarpur, District-Sultanpur, in the interest of justice.

(3) to issue a writ, order or direction in the nature of mandamus commanding and directing the opposite parties No.1 to 3 to get the statement of the petitioner recorded before the Magistrate under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and as well as get the medical examination of the petitioner conducted by the Chief Medical Officer of the District-Sultanpur, in the interest of justice.

(4) to issue a writ, order or direction in the nature of mandamus commanding and directing the opposite parties No.1 to 3 to ensure protection and preservation of the C.C.T.V. footage in and around the house of the petitioner as well as the premises of Police Station-Motigarpur and further direct the opposite parties to place before this Hon'ble Court the said C.C.T.V. footage along with the Call Detail Records (CDR) report, for the kind perusal of this Hon'ble Court, in the interest of justice."

4. Shri Rathore has stated that though the petitioner is presently under judicial custody, but by means of the present writ petition he is assailing the impugned F.I.R. which is misconceived on the face of it, demonstrating the atrocities of the police officers who reached at the place/ house of the petitioner in the intervening night of 6th - 7th September, 2025 at about 1:00 a.m. and subjected him to brutal physical assault and custodial torture. The relevant facts to that effect are given in paras-6, 7, 10 & 11, which read here-in-below:-

"6. That it is most respectfully being submitted that the petitioner is aggrieved from the impugned actions of the opposite parties including the police personnel having being subjected to atrocities by the police officials and in grave violation of the law laid down by the Hon'ble Supreme Court of India as well as by this Hon'ble Court from time to time wherein it has been categorically held that the power to investigate and arrest is with the police and same is to be exercised within the constitutional limits and these powers should not be used in the mechanical manner to cause injustice and atrocities to the innocent citizens of India.

7. That the petitioner who is a citizen of India and is a law abiding citizen has been subjected to police atrocities by the police of Police Station-Motigarpur, District-Sultanpur in violation of Article 21 of the Constitution of India wherein the police in order to falsely implicate the petitioner in connivance with the complainant hatched the conspiracy to falsely implicate the petitioner in a false case and the atrocities were not limited to the false implication, the police stepped ahead and manifestly in the most brutal manner picked up the petitioner from his residence in the midnight and took him to the secluded place and very brutally beaten the petitioner without there being any occasion and the falsity of the entire proceedings can also be inferred from the bare perusal of the arrest memo.

10. That it is humbly submitted that the present petitioner has been falsely implicated in the impugned First Information Report and has not committed any offence whatsoever as alleged therein. That the present petitioner was alone living independently in a separate rented accommodation. In order to sustain himself, the petitioner had also started a small-scale wood-cutting business as a means of livelihood. In support of the submission regarding

separate residence and independent livelihood, photographs of the house where the petitioner currently resides are being annexed herewith as Annexure No.2 to the present writ petition.

11. This is humbly submitted that the present petitioner is in the judicial custody as a real and undisputed facts, however, paint a completely different picture, for in the intervening night of 06-07, September, 2025 at about 01:00 A.M., certain police personnel/ opposite party Nos.5 to 9, forcibly barged into the residence of the petitioner, lifted him out of his house without any warrant or notice, and thereafter subjected him to brutal physical assault and custodial torture. The petitioner was mercilessly beaten, verbally abused, and treated inhumanly at the hands of respondent police officials."

5. Learned counsel for the petitioner has further submitted that the petitioner has been falsely implicated in one Case Crime No.157 of 2025, under Sections 61(2), 74, 115(2), 351(3) & 109 of Bharatiya Nyaya Sanhita, 2023, Police Station-Motigarpur, District-Lucknow and filed Anticipatory Bail Application No.2030 of 2025; Shyam Sundar @ Shyam Sundar Agrahari vs. State of U.P. wherein the Court of Sessions Judge, Sultanpur granted interim anticipatory bail on 03.07.2025. Thereafter, interim anticipatory bail order has been made absolute vide order dated 13.08.2025, which has been annexed with the writ petition as Annexure No.3.

6.Shri Rathore has stated that the present petitioner is a disabled person having disability of 40%, as Disability Certificate dated 09.05.2022 has been annexed as Annexure No.4. The recital to this effect has been given in para-15 of the writ petition.

7.Shri Rathore has further stated that even if the allegations of the F.I.R. are taken on its face value, those allegations are apparently false and misconceived inasmuch as a physically disabled person is unable to do misdeed so indicated in the F.I.R., therefore, the impugned F.I.R. has been lodged having ulterior motives and extraneous design in the mind of the opposite parties, as recital to this effect has been given in para-17 of the writ petition.

8.On being asked from the learned Government Advocate about the aforesaid allegations, he has produced a copy of the instructions letter dated 09.09.2025 provided by Sri Murari Lal, Sub-Inspector, Police Station-Motigarpur, District-Sultanpur, which is taken on record. The perusal of the aforesaid instructions does not convince the Court on the query and the allegations so levelled in the F.I.R.

9.This Court is unable to comprehend as to why a disabled person, aged about 56 years, has been subjected to such torturous treatment and while lodging the F.I.R. levelling allegations against him as to why this fact has not taken into account as to how the disabled person could have committed misdeed/offence so indicated in the F.I.R.

10.Therefore, keeping in view the aforesaid facts and compelling circumstances, the Superintendent of Police, District-Sultanpur is directed to file his personal affidavit. The opposite party No.3 i.e. Station House Officer, Police Station-Motigarpur, District-Sultanpur as well as opposite party Nos.5 to 10 shall also file their personal affidavits.

11.List this case on 19.09.2025. On that date, this case may be taken up at 12:15 p.m.

12.On the next date, the Superintendent of Police, District-Sultanpur as well as Station House Officer, Police Station-Motigarpur, District-Sultanpur along with opposite party Nos.5 to 10 shall appear in person before the Court along with their personal affidavits. If the personal affidavits of the aforesaid authorities are not filed by the next date, any coercive order may be passed on

the next date against them.

13. In the personal affidavit, the Superintendent of Police, District-Sultanpur shall enclose the CCTV footage in and around the house of the petitioner as well as the premises of Police Station-Motigarpur, District-Sultanpur and the Call Detail Records (CDR) of the opposite party Nos.5 to 10.

14. Learned Government Advocate may apprise this order to the aforesaid authorities at the earliest for its compliance.

15. When the case is next listed, name of Shri Harsh Dwivedi, Advocate be printed in the cause list as counsel for the opposite parties, who may also file counter affidavit."

3. In compliance of the aforesaid order, Kunwar Anupam Singh, Superintendent of Police, District-Sultanpur is present in person before the Court and has filed his personal affidavit, which is taken on record. Besides Kunwar Anupam Singh (opposite party No.2), Shri Vijay Singh (opposite party No.5), Shri Bharat Singh (opposite party No.6), Shri Anand Singh (opposite party No.7), Shri Ajeem Ahmad (opposite party No.9) and Shri Sanjay Choubey (opposite party No.10) are present in person before the Court. The Superintendent of Police, District-Sultanpur has informed that there is no police constable posted in the name of Rama Kant in Police Station-Motigarpur, District-Sultanpur. The personal affidavits filed by the opposite party Nos.5 to 7 and opposite party Nos. 9 & 10 are taken on record.

4. Dr. V.K. Singh, learned Government Advocate has drawn attention of this Court towards Annexure No.CA-9 of the personal affidavit of Kunwar Anupam Singh, Superintendent of Police, District-Sultanpur, which is an order dated 18.09.2025 constituting three members Committee consisting of one Shri Akhand Pratap Singh, Additional Superintendent of Police, District-Sultanpur, Chairman, Shri Ashutosh Kumar, Circle Officer-Jaisinghpur, District-Sultanpur and Shri Pradeep Kumar Singh, Inspector Incharge, Crime Branch, Sultanpur as Members to conduct the fact finding/ preliminary inquiry on the allegations so levelled by the petitioner in his writ petition.

5. On being asked from Kunwar Anupam Singh about the period when such inquiry would be concluded, he has stated that the aforesaid fact finding inquiry/ preliminary inquiry would be completed within fifteen days, may be before fifteen days.

6. The Superintendent of Police has also assured that in the present case the investigation would be conducted and concluded strictly in accordance with law and no innocent person would be harassed unnecessarily.

7. Learned counsel for the petitioner has filed two applications i.e. impleadment application bearing Criminal Misc. Application (IA) No.02 of 2025 and the amendment application bearing Criminal Misc. Application (IA) No.03 of 2025.

8. Dr. V.K. Singh, learned Government Advocate prays for and is granted ten days time to file objections against the aforesaid applications.

9. Learned counsel for the petitioner may file reply to the personal affidavit of Kunwar Anupam Singh, Superintendent of Police, District-Sultanpur and other personal affidavits of the authorities within a period of ten days.

10. Shri Onkar Singh, learned counsel has filed the counter affidavit on behalf of opposite party No.4 along with Vakalatnama, the same is taken on record.

11. Learned counsel for the petitioner may also file rejoinder affidavit to the counter affidavit of opposite party No.4, in the meantime.

12. List this case on 15.10.2025. On that date, the matter may be taken up

after lunch.

13. On that date, the Superintendent of Police, District-Sultanpur need not to appear again unless his presence is required by any specific order of this Court. The other officers/ officials, who are present in the Court, also need not to appear again on the next date unless their presence is required by any order of this Court.

14. On the next date, if the fact finding inquiry is completed, the report thereof or outcome thereof may be apprised to the Court.

15. When the case is next listed, name of Shri Onkar Singh, learned counsel be printed in the cause list as counsel for the opposite parties.

4. One of the reliefs as have been prayed for by the petitioner, apart from raising a challenge to the FIR and for quashing of the criminal proceedings arising thereon, is for a mandamus commanding the respondent authorities to ensure protection and preservation of the CCTV footage in and around the house of the petitioner as well as premises of Police Station-Motigarpur and further a direction to the respondents to place before this Court the CCTV footage along with Call Detail Records (CDR). This Court vide order dated 9.9.2025 had required the Superintendent of Police, Sultanpur, to file his personal affidavit enclosing the CCTV footage in and around the house of the petitioner as well as the premises of Police Station-Motigarpur, District Sultanpur and the Call Detail Records (CDR).

5. In the earlier personal affidavit dated 19.9.2025, respondent authorities filed a copy of the G.D. entry details dated 10.9.2025, enclosed as Annexure CA-1, to indicate that three CCTV cameras were got repaired on 10.9.2025. Further, as per the G.D. entry dated 11.9.2025 (page 30 of the affidavit) it emerges that all the CCTV cameras were got repaired. However, there is also a report dated 19.8.2025, copy of which is Annexure CA-6 of the said affidavit, submitted by the Incharge Inspector of the Police Station indicating that it has been discovered that the CCTV cameras were shut since 1.6.2025. However, no G.D. entry of the same has been annexed along with the personal affidavit. The said report dated 19.8.2025 itself is found to be patently strange inasmuch as apart from the fact that there is no entry made in the G.D. register, the letter itself indicates about the CCTV cameras not-working since 1.6.2025 but the letter has been sent on 19.8.2025 i.e. after a period of more than two and a half months. Further, the letter does not bear any reference number or letter number.

6. It is indeed strange that it is only when this Court vide order dated 9.9.2025 had directed for production of the CCTV footage that the G.D. entry has been made regarding the repair of the cameras whereas, no entry has been made in general diary regarding not working of CCTV Cameras since 1.6.2025 or sending the letter to the technical section i.e. CCTNS, regarding the same.

Therefore, it is clear that after the order dated 9.9.2025 all actions have been commenced by local police/authorities. The Court has repeatedly found in various matters that as soon as the CCTV footage is required to be either preserved or submitted by the authorities, it is found that the cameras are not working. **(See order:- Criminal Misc. Writ Petition No. 11291 of 2025 order dated 29.01.2026)**

7. If only one incident had come before this Court of the cameras being not working, it could have been understood but when something is happening repeatedly, it cannot be said to be a co-incidence inasmuch as strangely it is only when the courts require the CCTV footage from the concerned police station, it is discovered that the cameras are out of order !!!

8. Considering the aforesaid, it is thus prima facie apparent that a 'fictional story' is being put up by the authorities in order to enable them to escape from the strict rigors of preservation of the CCTV footage and of producing the same before a Court of law as and when required. Repeated coincidences are 'happening' which thus also compels the Court to quote the phrase:-

'once is an accident, twice is a coincidence, three times a pattern'

or rather following the fictional line which is being taken by the authorities, we may quote the famous lines as popularized by Ian Fleming in the James Bond movie Goldfinger:-

'once is happenstance, twice is coincidence, three times is enemy action'.

9. The matter is serious inasmuch as the Hon'ble Supreme Court in the case of **Paramvir Singh Saini Vs. Baljit Singh and Ors. 2021 (1) SCC 184** vide order dated 02.12.2020, has directed for preservation of the CCTV footage for a period of 18 months / 1 year / at least 6 months. Per contra, the circular issued by the Director General of Police, State of U.P. dated 20.06.2025 has directed for preservation of the CCTV footage for at least two to two and a half months and, thus, the non-preservation of the CCTV footage and thus now indicating before the Court that on account of technical glitch since long the CCTV footage has not been recorded / preserved, apart from the fact that the same is in gross contempt of the order passed by the Hon'ble Supreme Court in the case of **Paramvir Singh Saini (supra)**, is also violative of the directions issued by the Director General of Police dated 20.06.2025.

10. The other aspect of the matter is that the authorities themselves are not adhering to the circular issued by the Director General of Police of the State inasmuch as, what to talk about securing the footage for a period of two to two and half months, the footage itself is not being secured on the pretext of the

cameras being non functional. This aspect speaks volumes about the lackadaisical attitude on the part of the authorities and is a patent example of negligence and carelessness on their part.

11. Considering the aforesaid, the Court is compelled to direct the Chief Secretary of the State to inquire into the matter himself pertaining to the repeated glitches which are said to be happening in CCTVs installed in the police stations more particularly when CCTV footage is required by the Court. The inquiry would also look into the instance of this particular case and requisite guidelines in this regard would be promptly issued fixing the responsibility at least of the highest authority of the district, say the Superintendent of Police/Senior Superintendent of Police/Commissioner of Police, inasmuch as the time has now come that accountability should also be made to follow the law of gravity i.e. accountability to flow from top to bottom and not the other way around where Constables/Head Constables/Sub-Inspectors/Inspectors are made the scapegoat.

12. Let the inquiry report be submitted along with requisite guidelines in this regard by means of a personal affidavit of the Chief Secretary by the date fixed in the matter i.e. 23.02.2026, failing which, the Chief Secretary of the State shall appear in person along with relevant records to assist the Court.

13. List this case on 23.02.2026.

(Mrs. Babita Rani,J.) (Abdul Moin,J.)

February 4, 2026
AKK