



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. WRIT PETITION No. - 7968 of 2026

Ashutosh Kumar Pandey

.....Petitioner(s)

Versus

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

.....Respondent(s)

Counsel for Petitioner(s)	: Utkarsh Misra, Abhishek, Jai Shukla
Counsel for Respondent(s)	: G.A.

Court No. - 10

**HON'BLE RAJNISH KUMAR, J.
HON'BLE MRS. BABITA RANI, J.**

1. Counter affidavit filed by learned AGA after serving a copy on the counsel for the petitioner today is taken on record.

2. Learned AGA, on the basis of instructions, submits that after investigation into the FIR/Case Crime NO. 0067 of 2026 under Sections 221, 292, 353(1)(b) of BNS, 2023 and Section 66D of I.T. Act at Police Station-Hussainganj, District Lucknow, charge sheet has been forwarded on 21.9.2026 whereas by means of order dated 11.8.2026 the impugned FIR was stayed under the following order:

"1. Heard Shri Utkarsh Mishra, learned counsel for the petitioner as well as learned A.G.A. for the respondents-State No.1 to 3. Learned A.G.A. states that he would be accepting notice on behalf of respondent No.4 also.

2. Learned A.G.A. prays for and is granted four weeks' time to file counter affidavit to which reply may be filed within next two weeks.

3. List thereafter.

4. By means of the present petition, the petitioner seeks quashing of the FIR No.67 of 2026 under Sections 221, 292, 353(1)(b) B.N.S., 2023 (hereinafter referred to as 'Sanhita, 2023'), 66D of the Information Technology (Amendment) Act, 2008 (hereinafter referred to as 'Act, 2008'), Police Station Hussainganj, Lucknow Central.

5. The contention of the learned counsel for the petitioner is that a perusal of the impugned FIR indicates that the same has been lodged under Sections 221, 292 and 353(1)(b) of the Sanhita, 2023, and Section 66D of the Act, 2008. It is contended that a perusal of the impugned FIR indicates that the petitioner is

alleged to have circulated a post on Facebook on 09.05.2026 regarding certain irregularities allegedly committed in the State Sub-Inspector Recruitment Examination, 2025, of which the select list was issued on 07.05.2026. It is contended that the impugned FIR has been lodged under the aforesaid provisions by respondent No. 4.

6. The contention is that none of the offences under which the impugned FIR has been lodged are attracted. Elaborating the same, learned counsel for the petitioner contends that Section 221 of the Sanhita, 2023 pertains to obstructing any public servant in the discharge of his public functions. A perusal of the impugned FIR indicates that the petitioner has not obstructed any public servant in the discharge of his public functions.

7. Likewise, Section 292 of the Sanhita, 2023 pertains to punishment for public nuisance in cases not otherwise provided for. Public nuisance is defined under Section 270 of the Sanhita, 2023, whereby a person is guilty of public nuisance if he does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity.

8. The contention is that a perusal of the impugned FIR does not indicate that there has been any illegal omission on the part of the petitioner which may have caused any common injury, danger or annoyance to the public. It is contended that if at all any annoyance was caused to the public, it was for the public to have lodged the FIR and not for an Inspector, namely respondent No. 4, to have done so.

9. So far as Section 353(1)(b) of the Sanhita, 2023 is concerned, the contention is that the same pertains to statements conducing to public mischief. However, the respondent authorities have prima facie failed to take note of the exception clause contained in Section 353 of the Sanhita, 2023, which clearly indicates that a statement conducing to public mischief would not amount to an offence within the meaning of the said section where the person making, publishing or circulating any such statement, alleged false information, rumour or report, has reasonable grounds for believing that such statement, false information, rumour or report is true. Once the petitioner believed that certain irregularities had been committed in the State Sub-Inspector Recruitment Examination, 2025, it was incumbent upon the authorities to have investigated the same rather than lodging an FIR against the petitioner, inasmuch as the same would apparently amount to "killing the messenger".

10. So far as Section 66D of the Act, 2008 is concerned, the same pertains to punishment for cheating by personation by using a computer resource. From a perusal of the impugned FIR, the said offence is also not made out.

11. The argument is that the respondent authorities have jumped the gun in lodging the FIR and have shirked their responsibility by failing to investigate the allegations raised by the petitioner through social media.

12. Considering the aforesaid prima facie a case for interference is made out. As such until further orders, the impugned FIR shall remain stayed. Further, no coercive action shall be taken against the petitioner in

pursuance to the impugned FIR.

13. This case shall not be treated to be tied up/part heard to this Bench."

3. In view of above, respondent no. 3, S.H.O., Police Station-Hussainganj, District Lucknow is directed to explain as to how the investigation was conducted and charge sheet has been forwarded in the matter by filing a personal affidavit.

4. As prayed by learned AGA, two weeks' time is granted to file the personal affidavit of S.H.O. concerned.

5. List on 22.10.2026.

(Mrs. Babita Rani,J.) (Rajnish Kumar,J.)

September 30, 2026
AKK