

[Alleged Remarks Against UP CM | Allahabad HC Refuses To Quash FIR Against Samajwadi Party Leader Anurag Bhadouria](#)

2022 LiveLaw (AB) 495

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

RAMESH SINHA; J., RENU AGARWAL, J.

CRIMINAL MISC. WRIT PETITION No. 8641 of 2022; 19.11.2022

Anurag Singh Bhadouriya (In Fir Anurag Bhadouriya)

versus

State of U.P. Thru. Addl. Chief Secy./ Prin. Secy. Home Civil Secrett. Lko. And Others

Counsel for Petitioner: - Devendra Upadhyay

Counsel for Respondent: - G.A.

Heard Shri Sudeep Seth, learned Senior Advocate assisted by Shri Devendra Upadhyay, learned counsel for the petitioner, Shri Umesh Chandra Verma, learned A.G.A. for the Staterespondents and perused the impugned F.I.R. as well as material brought on record.

The instant writ petition has been filed by the petitioner - **Anurag Singh Bhadouriya (mentioned as Anurag Bhadouriya in F.I.R.)**, seeking a writ of certiorari to quash the impugned F.I.R. dated 12.11.2022 lodged by respondent No.4, registered as F.I.R. No.0395 of 2022, under Sections 153-A, 295-A, 298, 504 and 505(2) of Indian Penal Code, 1860 (hereinafter referred to as "I.P.C."), Police Station Hazratganj, District Lucknow Central (Commisionerate of Lucknow) with a further prayer it issue a writ, order or direction in the nature of mandamus commanding the respondents, not to arrest the petitioner in pursuance of the impugned F.I.R.

Learned counsel for the petitioner submits that petitioner is the spokesperson of Samajwadi Party and he has been invited various TV channels to participate in the debate or discussions held by the TV channels. He further submits that on 11.11.2022, a debate was held by the Electronic Channel ABP Ganga wherein, the petitioner made a comment which is being wrongly and deliberately interpreted by the informant so as to give it a meaning which the petitioner has never intended. He further submits that the impugned F.I.R. which has lodged against the petitioner by the private respondent only the petitioner has been singled out and a false F.I.R. has been registered against him and no F.I.R. has been lodged against the owners of Electronic Channel, ABP Ganga and the Anchor, who has hosted the show. He next submits that the petitioner has deepest respect for the office of the Chief Minister as well as sentiments of the followers of late Mahant Avaidyanath and the petitioner has never intended to hurt their feelings or faith. He next submits that offence in question are punishable for less than seven years of imprisonment and the police has not following the guidelines issued by the Hon'ble Apex Court from time to time in the case of Arnesh Kumar vs. State of Bihar reported in 2014 (8) SCC 273 regarding compliance of Section 41-A of the Cr.P.C. He next submits that no offence under Sections 153-A, 295-A, 298, 504 and 505 (2) of I.P.C. made out against the petitioner. He further submits that the impugned F.I.R. has been lodged just as a political tussle for harassment of the petitioner with oblique motive. The petitioner has no previous criminal history. He further submits that even if the allegation made in the F.I.R. are taking to be true, at the most, case of defamation made out, if any, against the petitioner for which the complaint

can be filed against him before the competent court, hence, the impugned F.I.R. is liable to be quashed.

Learned A.G.A., on the other hand, has opposed the prayer for quashing of the F.I.R. and submits that from perusal of the impugned F.I.R., it is apparent that the petitioner, who is a spokesman of political party has made derogatory and disrespectful comments on the father of the Chief Minister of the State with an intention to hurt the feelings of followers of late Mahant A vaidyanath for oblique motive and on being stopped by the TV Anchor for making such comment, when the petitioner did not stop making such comments, the voice of the petitioner, who was the spokesman had muted by the TV Anchor and he went on making disrespectful comments. He further submits that the impugned F.I.R. discloses cognizable offence against the petitioner, hence, the writ petition is liable to be dismissed.

After having heard submissions advanced by learned counsel for parties and perused the impugned F.I.R., it is apparent that the petitioner had made a derogatory and disrespectful comments on the T.V. channels ABP Ganga while being present in the debate organized by the said T.V. channel of the political parties and when the petitioner made such comments, the same was objected by the T.V. anchor and as repeated comments, his voice was muted. Moreover, from the allegations made in the F.I.R. as a subject matter of investigation and at this stage it cannot be said that no offence, whatsoever is made out against the petitioner.

In view of the ratio laid down by the Apex Court in ***Neeharika Infrastructure Private Limited vs. State of Maharashtra: AIR 2021 SC 1918*** and on perusal of the impugned F.I.R. and material on record, it transpires that, prima facie, a case is made out against the petitioner. The submissions made by the learned counsel for the petitioners relates to disputed questions of facts, which cannot be adjudicated upon by this Court in jurisdiction of under Article 226 of Constitution of India.

From the perusal of the F.I.R., prima facie, it cannot be said that no cognizable offence is made out, hence no ground exists for quashing of the F.I.R. or staying the arrest of the petitioners.

The writ petition is, accordingly, **dismissed**.