

GAHC010214872025



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./1170/2025

ABHISAR SHARMA
SON OF SHRI S.K SHARMA, RESIDENT OF FLAT NO. 20023, BLOCK - PINE
MAHAGUN MYWOODS, GAUTAM BUDDHA NAGAR, UTTAR PRADESH
-201009

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2: ALOK BARUAH
SON OF PARESH BARUAH
RESIDENT OF NAYANPUR
SEUJILA PATH
GANESHGURI
GUWAHATI
ASSAM - 781006

Advocate for the Petitioner : MR. K N CHOUDHURY, MR A ATREYA, MR. T DEURI

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 19.09.2025

1. Heard Mr. K. N. Choudhury, learned senior counsel assisted by Mr. T. Deuri, learned counsel for the petitioner. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State.

2. This application under Section 528 of BNSS has been filed by the petitioner, namely, *Abhisar Sharma* who is praying for of the First Information Report No. 7/2025 which was filed by the respondent No. 2, Alok Baruah, on the basis of which Crime Branch P.S. Case No. 7/2025 was registered under Sections 152/196/197 of IPC.

3. The gist of accusation in this case is that on 21.08.2025, one Alok Baruah (respondent No. 2) had lodged an FIR before the Officer-in-charge of Crime Branch Police Station against the present petitioner, *inter alia*, alleging that the petitioner with an intention to malign and disrepute the duly-elected Government of Assam and Union of India has published and circulated an article through an online platform, YouTube, which contain statements ridiculing and denigrating the duly-elected Government of Assam and Union of India.

4. The learned senior counsel for the petitioner has submitted that in a criticism of functioning of a Government which is fair in nature, does not constitute any offence under Section 152/196/197 of the BNS. He further submits that the petitioner prior to approaching this Court by filing the instant criminal petition had approached the Apex Court by filing Writ Petition (Crl.) No. 338/2025. In the said writ petition by the order dated 28.08.2025, the Apex Court had issued notice in that case, however, only with respect to the challenge to the *vires* of Section 152 of BNSS, BNS 2023. However, so far as challenge to the FIR in question, the Apex Court did not interfere and granted interim protection to the petitioner for a period of four weeks to enable him to approach Court, and accordingly, the petitioner is before this Court.

5. On the other hand, learned Additional Public Prosecutor has submitted that in a proceeding under Section 528 of BNSS, normally High Court should

refrain from passing orders like “no coercive action” without clarifying the same. He also submits that if the petitioner is seeking protection from arrest in connection with this case, he may approach the appropriate Court under appropriate provision of law by seeking relief under Section 482 of BNSS. In support of his submission, he has cited a ruling of the Apex Court in the case of “**Siddharth Mukesh Bhandari Vs. State of Gujarat**” reported in “**2023 1 SCC (Cri) 389**”.

6. I have heard the submissions made by learned counsel for both sides and have gone through the records of this case.

7. It appears that the Apex Court had granted protection to the petitioner for a period of four weeks according to the submission of learned counsel would be over by today.

8. The contention raised by learned senior counsel for the petitioner in this criminal petition deserves an examination by this Court and, therefore, let the case diary of Crime Branch P.S. Case No. 7/2025 be called for.

9. List this matter again on 22nd of October, 2025.

10. In the meanwhile, considering the fact that the protection granted by the Apex Court is for a period of four weeks which would lapse on 27.09.2025, the said protection shall continue to remain till next date till arrival of the case diary.

11. List accordingly.

JUDGE

Comparing Assistant