



HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 40907 of 2025

Shri Bhagwan

.....Applicant(s)

Versus

State of U.P. and another

.....Opposite
Party(s)

Counsel for Applicant(s) : Chandan Sharma, Shubham Tripathi
Counsel for Opposite Party(s) : G.A.

Court No. - 75

HON'BLE KSHITIJ SHAILENDRA, J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State-respondents.
2. The instant application under Section 528 B.N.S.S has been filed by the applicant for quashing of the charge sheet dated 24.02.2025, cognizance/summoning order dated 24.07.2025 as well as entire proceedings of Case No. 11611 of 2025 (State vs. Ashutosh Singh and others), arising out of Case Crime No. 638 of 2024, under Sections 316(5) and 61(2) of BNS, Police Station Dibiyapur, District Auraiya pending in the court of Chief Judicial Magistrate, Auraiya.
3. One of the submissions made by learned counsel for the applicant is that the applicant has retired from the post of District Social Welfare Officer and the allegation levelled in the FIR is that when he was posted as such, he had facilitated transfer of amount in favour of the persons, who were not beneficiaries of the scheme concerned and, therefore, he has committed offence under the aforesaid provisions; however, the applicant, at the relevant point of time, being a public servant, no cognizance against him could be taken without obtaining previous sanction from the State Government, as per Section 218 of BNSS.
4. Per contra, learned A.G.A. submits that the FIR itself indicates the fact that an inquiry was conducted against the applicant and based upon that, the Directorate of Social Welfare, U.P. Govt. directed launching of criminal prosecution. Reference has been made to an order dated

31.07.2024 issued from the Directorate of Social Welfare, U.P. referring to the inquiry report and submission has been made that since the department of State Government itself had recommended lodging of the FIR against the applicant, the requirement of obtaining sanction at a subsequent, but pre-cognizance stage, stands washed off.

5. Learned counsel for the applicant seeks time to address the Court that in a case where the concerned Department of the State Government itself conducts inquiry and launches prosecution, whether requirement to obtain sanction from the State Government under Section 218 BNSS can still be attracted. Relevant judgments on this point shall also be placed before this Court.

6. Put up this case **as fresh** on **08.12.2025**.

(Kshitij Shailendra,J.)

November 17, 2025

Sazia