

ITEM NO.41 COURT NO.3 SECTION II  
(HEARING THROUGH VIDEO CONFERENCING)

MOST URGENT

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (Cr1.) No.6804/2020

(Arising out of impugned final judgment and order dated 17-12-2020 in HCWP No.556/2020 passed by the High Court Of Judicature At Allahabad)

ALOK SINGH

Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH & ORS.

Respondent(s)

(FOR ADMISSION and I.R.; IA No.136030/2020 - FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; IA No.136029/2020 - FOR EXEMPTION FROM FILING O.T.; and, IA No.136031/2020 - FOR EXEMPTION FROM FILING AFFIDAVIT)

Date : 05-01-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MR. JUSTICE HEMANT GUPTA  
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

For Petitioner(s) Mr. Sidharth Luthra, Sr. Adv.  
Mr. Rajul Bhargava, Adv.  
Mr. Kartikeya Bhargava, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

The present Special Leave Petition challenges the direction issued by the High Court of Judicature at Allahabad in Habeas Corpus Writ Petition No.556 of 2020 directing the Commissioner of Police, Gautam Budh Nagar, Uttar Pradesh, to remain personally present before the High Court on 05.01.2021 at 2.00 p.m. and file his personal affidavit why the detenus were not being produced before the Court despite repeated orders passed by the High Court.

Mr. Sidharth Luthra, learned Senior Advocate appearing in support of the petition submitted *inter alia*:

- a. The suspects Devanand and Yogesh Kumar were interrogated on 17.07.2020 in Sector 49 Police Station, District Gautam Budh Nagar, Uttar Pradesh. However, since no concrete clue was found, appropriate remarks were made in G.D. No.49 dated 17.07.2020;
- b. On 08.11.2020, FIR was lodged by the complainant Awadhesh Sharma vide Crime No.930 of 2020, under Section 365 IPC, with Police Station Sector-49, District Gautam Budh Nagar, Uttar Pradesh;
- c. In connection with aforesaid crime, said Devanand and Yogesh Kumar were interrogated on few occasions and lastly on 30.12.2020;
- d. Said Devanand and Yogesh Kumar were however not taken in custody by the concerned Police; and
- e. Appropriate steps were taken by the Police in connection with the aforesaid crime and a team was also constituted on 20.11.2020 under the supervision of the Assistant Commissioner of Police-3<sup>rd</sup>, NOIDA, District Gautam Budh Nagar.

It was further submitted that the High Court ought not to have made any observations against the Commissioner of Police without affording him any opportunity of hearing.

Since the matter is made returnable before the High Court on 05.01.2021 at 2.00 p.m., we modify the direction issued by the High Court as paraphrased above and in its place direct as under:

- I. Mr. Rajesh S., Dy. Commissioner of Police, NOIDA alongwith Investigating Officer shall appear before the High Court today at 2.00 p.m. and shall apprise the High Court of all the steps taken by the investigating machinery in the matter;
- II. The reason why said Devanand and Yogesh Kumar have not been taken in custody so far, shall also be placed before the High Court;

- III. It will not be necessary at this stage for the Commissioner of Police, Gautam Budh Nagar, Uttar Pradesh, to appear personally before the High Court;
- IV. The High Court shall consider the matter on merits including the question whether steps undertaken by the investigating machinery were in the correct direction or not.
- V. In case, the High Court is not satisfied, the High Court may pass appropriate directions in the matter.

Considering the nature of urgency in the matter and the fact that the Commissioner of Police was directed to appear on 05.01.2021 at 2.00 p.m., we have passed the aforesaid directions without issuing notice to the original writ petitioner.

The petitioner shall be at liberty to file an appropriate application before the High Court seeking expunging and/or withdrawal of the observations made by the High Court against the petitioner.

We have not and shall not be taken to have reflected on the merits or demerits of the steps taken by the investigating machinery and the matter in that behalf is left open to be considered by the High Court.

With the aforesaid observations, this Special Leave Petition is disposed of.

Pending applications, if any, also stand disposed of.

(MUKESH NASA)  
COURT MASTER

(PRADEEP KUMAR)  
BRANCH OFFICER