



SC Order - Bail to Journalist Prashant Kanojia

Why in news?

The Supreme Court ordered granting immediate bail to journalist Prashant Kanojia, arrested by the Uttar Pradesh Police.

What are the incongruities in the arrest?

- Journalist Prashant Kanojia was arrested for sharing on Twitter a video pertaining to Chief Minister Yogi Adityanath.
- **Rationale** - This is a period when social media networks are full of rampant abuse and distasteful material.
- Given this, the police choosing one or two that appear to target political functionaries is disputable.
- It is obvious that the arrest was arbitrary and unwarranted, and reflects disregard for law and liberty.
- **Procedural** - There has been a clear disregard for well-established norms for arrest and remand.
- In Mr. Kanojia's case, defamation, a non-cognisable offence, and Section 66 of the Information Technology Act were cited initially.
- The latter relates to damaging computer systems, and is inapplicable to a social media post.
- It was quite clear that there was no case for remand.
- Also, Kanojia was taken out of Delhi without a transit remand from a local magistrate, mandatory when an accused is taken from one State to another.
- **Legal** - Given the above, the U.P. Police faced lot of criticisms.
- It thus added a section dealing with the offence of causing public mischief and disturbing public tranquillity.
- Besides, Section 67 of the IT Act which relates to sharing of obscene or prurient material was used, with the motive of obtaining a remand order.
- Clearly, the arrest took place first and justifications for arrest were made up in the course of time.

What was the court's observation?

- The Bench did not consider the controversial tweets as sufficient grounds for abridging personal liberty.
- It clearly ignored the technical objections by the counsel for the State government.
- [It was argued by the state that the apex court should not intervene as only a regular bail petition could secure relief to someone remanded by the jurisdictional magistrate.]

What should be done?

- Given the legal and procedural incongruities, it is high time to ensure that magistrates do not pass mechanical orders without application of mind.
- Also, officers who carry out illegal instructions from the political leadership should be made to face exemplary disciplinary action.

Source: The Hindu



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