



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. WRIT PETITION No. - 10736 of 2025

Anjan Kumar

.....Petitioner(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. Home Lko
And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Saksham Agarwal, Anupriya Agarwal, Pradeep Kumar Mishra, Rakesh Kumar Agarwal
Counsel for Respondent(s)	:	G.A.

Court No. - 11

**HON'BLE ABDUL MOIN, J.
HON'BLE MRS. BABITA RANI, J.**

1. Heard Shri Pradeep Kumar Mishra, learned counsel for the petitioner as well as learned Government Advocate appearing on behalf of respondents No.1 to 3.
2. The instant petition has been filed praying for a mandamus commanding the respondents to transfer the investigation of F.I.R. dated 22.10.2024 bearing F.I.R. No.0236 of 2024, under Sections 137(2)/87 of B.N.S., 2023, Police Station Laliya, District Balrampur, a copy of which is Annexure-1 to the petition.
3. The contention is that the aforesaid F.I.R. has been lodged by the petitioner against named accused i.e. respondent No.4 duly indicating the offence as committed by the named accused.
4. As the respondent-authorities were not proceeding in a fair manner, consequently, the instant petition has been filed.
5. This Court, vide order dated 17.11.2025, required the personal affidavit of the Superintendent of Police, Balrampur i.e. the respondent No.2 to be filed pertaining to the investigation that has been made in the matter subsequent to the lodging of the aforesaid F.I.R. dated 22.10.2024.

6. In pursuance thereof, the personal affidavit of the Superintendent of Police, Balrampur has been filed.

7. The personal affidavit of the Superintendent of Police, Balrampur is found to be shocking!

8. The reasons why we say this are as follows:

In the personal affidavit, it has been indicated that two contrary statements have been given by the victim under Section 183 of the BNSS, 2023 - the first dated 28.10.2024 and the second dated 19.03.2025 and consequently, a notice has been issued to the victim / her father to come for a polygraph test.

9. It has also been indicated that the Special Judge, POCSO Court, District Balrampur has passed an order dated 08.01.2025 for re-recording the statement of the victim. The copy of the said order is Annexure- P.A.1 to the personal affidavit.

10. It has also been indicated that the said order dated 08.01.2025 has been challenged before this Court by filing Criminal Revision No.358 of 2025 (CRLRD), which has been filed on 17.07.2025, and is pending for consideration before this Court. It has also been indicated that for the purpose of the polygraph test of the victim, an application has also been filed before the learned Judicial Magistrate-I, Balrampur which is pending for consideration.

11. The personal affidavit bears the date of "02.02.2025" although it has been sworn on 02.12.2025.

12. Learned Government Advocate states that inadvertently the date of "02.02.2025" has been indicated rather the same should be "02.12.2025".

13. Responding to the aforesaid, learned counsel for the petitioner points out that the application for polygraph test of the victim / her father, which is said to have been submitted to the learned court, has already been rejected by the learned court on 01.12.2025. Copy of the said order has been passed over to the Court and the Court, being a Court of Record, takes the same on record.

14. Thus, at the very outset, it emerges that the affidavit which has been filed by the Superintendent of Police, Balrampur is a false affidavit indicating the pendency of the application for polygraph test, which affidavit was sworn and verified on 02.12.2025, yet the said application has already been rejected on 01.12.2025 i.e. even before the date of swearing and verifying the affidavit.

15. This is the first indication of the shocking affidavit which has been filed by the Superintendent of Police, Balrampur without even having cared to go through the complete facts of the case.

16. The second shocking aspect of the matter is that initially the statement of the victim was recorded on 28.10.2024, under Section 183 of the BNSS, 2023. Subsequently, she preferred an application before the learned Special Judge, POCSO Act, District Balrampur in Case No.271 of 2024 in Re: Complainant vs. Shubham Patwa duly indicating that on account of the pressure exerted by the accused and the police, she could not give the correct statement pertaining to the offence of rape as committed against her which thus required the victim to file an application for re-recording of her statement. The competent court, vide order dated 08.01.2025, considering that the investigation is still pending and the averments of her application, directed for re-recording of the statement of the victim. In pursuance thereof, the statement of the victim has been recorded on 19.03.2025, a copy of which is Annexure-4 to the petition, per which the offence of rape against the minor victim is clearly made out. Strangely, after the statement has been recorded on 19.03.2025, it is the State which has chosen to challenge the order dated 08.01.2025 as passed by the competent court for re-recording of the statement of the victim by filing the Criminal Revision No.358 of 2025 (CRLRD) before this Court.

17. It is not understood as to under what circumstances the State is aggrieved by the order of the competent court directing for re-recording of the statement of the victim, more particularly, keeping in view the circumstances as have already been spelt out by the learned court while directing for re-recording of the statement of the victim.

18. It could have been another aspect of the matter that the accused

could have challenged the said order but we fail to understand as to by what stretch of imagination, the State has chose to challenge the said order dated 08.01.2025!

19. Another shocking aspect of the matter is that once the statement of the victim has been recorded in pursuance to the direction issued by the competent court on 19.03.2025, in which clearly the offence of rape is made out against a minor, as to why the authorities are now insisting for a polygraph test to take place by indicating that the statements recorded by the victim are contrary.

20. Once the reasons emerge for the earlier statement of the victim dated 28.10.2024 to have been recorded under pressure which has also prevailed on the learned court while passing the order dated 08.01.2025 for re-recording the statement of the victim, consequently, there does not appear to be any occasion for a polygraph test to be conducted either of the victim or of her father and for a notice to be issued in this regard to them.

21. Even otherwise, the application which has been made before the competent court for permission to hold a polygraph test already stands rejected by the competent court on 01.12.2025.

22. Considering the aforesaid shocking aspects of the matter and the personal affidavit having been filed by the head of the police force of the district i.e. the Superintendent of Police, Balrampur, the Court has no option but to call for the personal affidavit of the Principal Secretary (Home), U.P. to explain (1) the circumstances in which the aforesaid personal affidavit has been filed by concealing vital facts from the Court as indicated above and (2) as to the insistence of the authorities in requiring a polygraph test to be conducted of the victim more particularly when from the order of the competent court dated 08.01.2025, the circumstances in which the re-recording of the statement of the victim were clearly spelt out.

23. The personal affidavit of the Principal Secretary (Home), U.P. would also indicate the reason as to why the State has chosen to challenge the order of the competent court even when, prima facie, it cannot be said that the State could be aggrieved by the re-recording of the statement of the victim in view of the order passed by the

competent court of law.

24. Let the personal affidavit be filed within a week.

25. List this case on 15.12.2025.

26. In case the personal affidavit is not filed, then the Principal Secretary (Home), U.P. shall appear in person along with relevant records to assist the Court on the said date.

December 3, 2025

S. Shivhare

(Mrs. Babita Rani,J.) (Abdul Moin,J.)