

THIN-SKINNED MASTERS: ON JOURNALISTS ARREST

Relevant for: Indian Polity | Topic: Indian Constitution - Features & Significant Provisions related to Fundamental Rights, Directive Principles and Fundamental Duties

The Supreme Court order granting immediate bail to journalist Prashant Kanojia, arrested by the Uttar Pradesh Police for sharing on Twitter a video pertaining to Chief Minister Yogi Adityanath, was not unexpected. It was obvious that the arrest was arbitrary, unwarranted and without any basis in law. The State government's attempt to justify its action smacked of perversity and malice. The vacation Bench, comprising Justices Indira Banerjee and Ajay Rastogi, made the right call in ignoring technical objections by counsel for the State government that the apex court should not intervene as only a regular bail petition could secure relief to someone remanded by the jurisdictional magistrate. The Bench did not consider the controversial tweets as sufficient grounds for abridging personal liberty. In observing that the order of release would not amount to an endorsement of Mr. Kanojia's tweets, the court was only making a minor concession to the police claim that he was making inflammatory comments on social media. It is difficult to believe that at a time when social media networks are full of rampant abuse and distasteful material, the police can be allowed to choose one or two that appear to target political functionaries and incarcerate those airing such views, disregarding 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.

SC orders immediate release of journalist on bail

There was a more flagrant illegality when Mr. 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. Faced with criticism, the U.P. Police 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, with the motive of obtaining a remand order. A few other journalists have been arrested for discussing the content of the video clip, in which a woman is seen expressing her wish to marry the Chief Minister. What is disquieting, but unsurprising, is the perfunctory attitude of civil servants towards the personal liberty of citizens. It is one thing to pursue violations through legal action, but quite another to lock up people for posts they deem offensive to their political masters and conjure up justifications for their arrest. It is time magistrates who pass mechanical orders without application of mind and officers who carry out illegal instructions from the political leadership are made to face exemplary disciplinary action.

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As Prime Minister Modi returns to power, he must swear by the Indian civilisational ethos

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