

## 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**

