

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			C482 No. 1731 of 2023 With C482 No. 1732 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Mani Kumar, the learned counsel for the applicants. Mr. V.K. Gemini, the learned Dy. A.G. with Mr. Virendra Rawat, the learned Brief Holder for the State.. Heard. Since, both the C482 petitions arise out of the same cause of action, therefore, they are being clubbed together, and are being decided by a common order. The petitioner, in these two C-482 petitions, has put a challenge to the Criminal Case No. 519 of 2022, State of Uttarakhand vs. Nawab Ahmad, and Criminal Case No. 520 of 2022, State of Uttarakhand vs. Shahrukh & anr, respectively, wherein the present applicants in the respective 482 applications have been summoned by an order of 2.08.2022, respectively in the aforesaid two cases for the offences under Section 323, 452, 504 & 506 of IPC and Section 3(1)(r) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act. The counsel for the applicants has prayed for that since all the offences carries a sentence of less than seven years, the C-482 application may be disposed of in the light of <i>Satendra Kumar Antil vs. C.B.I., as reported in (2022) 10 SCC 51.</i> But, the said prayer made by the counsel for the applicant is being opposed by the government advocate on the ground that the law creates an embargo for disposal of the

		case as against scheduled caste and scheduled tribes in the light of the provisions contained under Section 15 (A)(3) of the SC/ST Act, because they have to be noticed before any order is passed. This Court is of the view that the basic intention of Sub-section (3) of Section 15A of the Act, was that if any proceeding are drawn against the member belonging to a scheduled caste and schedule tribes, the legislature has provided a precaution, that the Court should not entertain the same until and unless they are heard on merits, prior to passing any order against them. If that be the spirit of legislation, and particularly when this 482 application has been sought to be disposed of in the light of the judgment <i>Satendra Kumar Antil (supra)</i>, in fact, this Court is not venturing into any aspect on merits of the matter, rather, this Court is relegating the applicants to approach before the Competent Court which has issued the summoning order for seeking their re-courses as provided by the judgment of <i>Satendra Kumar Antil (supra)</i> for resorting to their remedies as provided under para 4(e) of the judgment. In view of the aforesaid logic and reasons, this Court of the view that disposing of these 482 applications is not in contravention of the provisions contained under Section 15 A(3) nor does it amounts to any order being passed against the member belonging to the scheduled caste and scheduled tribes . As such a strict compliance of Section 15 A(3) is not to be made. In that view of the matter, these 482 applications would stand disposed of with a request to the Court of learned Special Session Judge, Udham Singh Nagar, who is dealing with Special Session Trial Nos. 519 of 2022 and 520 of 2022 respectively, to deal with the bail application of the present
--	--	---

			applicants in the light of the classification made pertaining to “A category offences” in the judgment of <i>Satendra Kumar Antil</i>, where bail application is required to be considered in the light of the parameters prescribed in para 3 (e) of the said judgment. Subject to the aforesaid, both the C482 petitions would stand disposed of. (Sharad Kumar Sharma, J.) 25.08.2023 PV
--	--	--	---

--	--	--	--