

**HIGH COURT OF UTTARAKHAND AT
NAINITAL**

Criminal Writ Petition No.1693 of 2023

Islam Nabi

....Petitioner

Versus

State of Uttarakhand and Others

....Respondents

Present:-

Mr. M.K. Ray and Mr. Harsh Taneja, Advocates for the petitioner.

Mr. K.S. Bora, D.A.G. with Mr. J.P. Kandpal, Brief Holder, Brief Holder for the State.

JUDGMENT

Hon'ble Ravindra Maithani, J. (Oral)

The petitioner seeks quashing of Case Crime No.212 of 2023, under Sections 3/25 of the Arms Act, 1959, and Sections 8/21/22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("the Act"), Police Station Dineshpur, District Udham Singh Nagar, with related reliefs.

2. Heard learned counsel for the parties and perused the record.

3. According to the FIR, the police got an information that in the shop run by the petitioner, there are some illicit articles stored. When police entered into the shop , they recovered various fire arms, cartridges as well as *charas*.

4. Learned counsel for the petitioner would submit that it is a totally false case; false implication. It is argued that, in fact, the petitioner had sought certain information with regard to the working of the Village Pradhan of village

Lambakhera, therefore, the Village Pradhan had become inimical to the petitioner. It is he, who, in a conspiracy with the police, made false report lodged against the petitioner. It is also argued that the brother of the Village Pradhan can be very well seen visiting the shop of the petitioner just before the incident on multiple occasions. It is also argued that it is a case of non compliance of the provisions of the Act.

5. It is a writ petition under Article 226 of the Constitution of India. In case, the FIR discloses commission of offence, generally, no interference is warranted unless there are compelling circumstances to do so.

6. What is being argued is that it is a false implication. There are basically two basis for this whole argument, namely, (i) the petitioner has raised certain issues with regard to the working of Vikram Singh, the Village Pradhan, due which he was inimical, and, (ii) the brother of the Village Pradhan can be seen in the CCTV footages roaming around the shop of the petitioner just before the alleged recovery. In fact, in addition to it, what is argued is that it is a case of non-compliance of the provisions of the Act.

7. In order to verify the averments, as made by the petitioner, what is required is a full-fledged trial, not a mini trial. Although, in a petition under Article 226 of the Constitution of India, at times inference is made on the

ground of *mala fide* also, but instant is not such a case, which, on the face of it, may invite the attention of the Court on that count also.

8. The FIR discloses commission of offence. The question that would find deliberation during investigation or trial, as the case may be, will be with regard to the compliance of the provisions of the Act, the factum of recovery, etc. Therefore, this Court is of the view that there is no reason to make any interference, at this stage. The petition deserves to be dismissed, at the stage of admission itself.

9. The petition is dismissed *in limine*.

(Ravindra Maithani, J.)

26.12.2023