

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 12336 of 2023

Petitioner :- Ram Kripal Gupta

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Santosh Kumar Tiwari

Counsel for Respondent :- G.A., Piyush Patel, Pradeep Kumar, Yogesh Kumar Tripathi

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Learned counsel for the petitioner has supplied a copy of the message sent on Whatsapp, which was duly received, to learned counsel appearing for the informant to the effect that the case shall be taken up in the first call. The same is taken on record.

2. No one is present on behalf of the informant.

3. Heard Sri Santosh Kumar Tiwari, learned counsel for the petitioner and Sri Ratan Singh, learned A.G.A for the State respondents.

4. The relief sought in this petition is for quashing of the F.I.R. dated 11.7.2023 registered as Case Crime No. 321 of 2023 under Sections 419, 420, 467, 468, 409 IPC, Police Station Nichlaul, District Maharajganj. Further prayer has been made not to arrest the petitioner in the aforesaid case.

5. Submission of learned counsel for the petitioner is that the petitioner has been falsely implicated in the present case because of some political rivalry as well as some personal dispute in relation to one land with one Shailesh Patel against whom the petitioner has lodged a first information report dated 20.5.2023 registered as Case Crime No. 204 of 2023, under Sections 420, 406, 504, 506 IPC, Police Station Nichlaul, District Maharajganj. It is also pointed out that Shailesh Patel also filed a First Information Report dated 5.7.2023 against the petitioner, which was registered as Case Crime No. 305 of 2023, under Sections 419, 420, 504, 506 IPC, Police Station Nichlaul, District Maharajganj. It is next submitted that the present criminal prosecution has no legs to stand as he has performed his duties as

Gram Rojgar Sewak.

6. Learned AGA opposed the prayer for quashing of the FIR, which discloses cognizable offence.

7. From perusal of record we find that the present first information report has been lodged by Gram Vikas Adhikari after due departmental inquiry, wherein cogent evidence was found against the petitioner. The petitioner has misappropriated funds by creating job cards in the name of his father and wife as well. The allegation is also to the effect that the petitioner has taken commission from MANREGA labours.

8. Perusal of the impugned first information report prima facie reveals commission of cognizable offence. Therefore, in view of the law laid down by Hon'ble Supreme Court in the case of **State of Haryana and others vs. Bhajan Lal and others, 1992 Supp. (1) SCC 335 and M/s Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra, AIR 2021 SC 1918 and in Special Leave to Appeal (Crl.) No.3262/2021 (Leelavati Devi @ Leelawati & another vs. the State of Uttar Pradesh)** decided on 07.10.2021, no case has been made out for interference with the impugned first information report.

9. Therefore, the writ petition is dismissed leaving it open for the petitioner to apply before the competent court for anticipatory bail/bail as permissible under law and in accordance with law.

Order Date :- 16.10.2023

Lalit Shukla