

Court No. - 91

Case :- APPLICATION U/S 482 No. - 32106 of 2023

Applicant :- Rajesh Kumar And 4 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Anand Prakash Pandey, Karuna Shankar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar, J.

Heard learned counsel for the applicants and the learned AGA for the State and perused the record.

This application under Section 482 CrPC has been filed with the prayer to quash the order dated 16.11.2021 as well as the entire proceedings of Criminal Case No. 245 of 2021, under Sections 147, 323, 504, 506, 392 IPC and Section 3(1)da & dha of SC/ST Act, Police Station Sujanganj, District Jaunpur.

It is submitted by the learned counsel of the applicants that the FIR has been lodged on false grounds while the applicants have not committed any offence. The police has also submitted charge sheet on the basis of insufficient evidence against the applicants. Essential ingredients to constitute offence are lacking. The present prosecution has been instituted with a malafide intention. Learned counsel for the applicants pointed out certain documents and statements in support of his contention.

Learned AGA has opposed the prayer.

I have considered the submissions made by the learned counsel for the parties and have gone through the entire record carefully.

As is evident, all the submissions made at the bar relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under Section 482 Cr.P.C. At this stage only a prima facie case is to be seen in the light of the law laid down by Supreme Court in the cases of ***R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283.*** From a

perusal of the material available on record and keeping in view the facts of the case, at this stage it cannot be said that offences levelled against the applicants are not made out. Hence, prayer made in the application is refused.

In the last, learned counsel has urged that direction for expeditious disposal of bail application of the applicants be given.

Hence, it is observed that in case applicants surrender before the court below and apply for bail within thirty days from today, the same shall be considered and decided in view of the settled law. For a period of thirty days from today, no coercive action shall be taken against the applicants.

It is made clear that no further time shall be allowed to the applicants to surrender before the court concerned.

With the aforesaid observations, the application stands **disposed of**.

Order Date :- 28.10.2023

Sanjeet