

Court No. - 43

Case :- CRIMINAL MISC. WRIT PETITION No. - 13900 of 2023

Petitioner :- Mufeej

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Rajesh Kumar

Counsel for Respondent :- G.A.

Hon'ble Anjani Kumar Mishra,J.

Hon'ble Mohd. Azhar Husain Idrisi,J.

1. Heard learned counsel for the petitioner and learned A.G.A. for the State.

2. The instant writ petition seeks quashing of the FIR dated 06.08.2023 giving rise to Case Crime No.0254 of 2023, under Sections 8/20 N.D.P.S. Act, Police Station- Sikandarpur, District- Ballia.

3.The contention of learned counsel for the petitioner is that he has not been arrested on the spot and he was not present at the spot at the time of the alleged incident which was at night. The allegations in the first information report impugned are false. In any case, petitioner's name was cropped up in the statement of co-accused. It has also been stated that two FIRs have been lodged containing identical facts and registered as Case Crime No. 254 of 2023 and 255 of 2023 respectively. The impugned first information report was lodged at 06:51AM and second at 06:56 AM.

4. Learned AGA has pointed out that although the allegations in the two FIRs are identical, it is the earlier first information report which is under challenge in the instant writ petition.It is only a second first information report on identical allegations which is barred under law.

5. Upon consideration of the submissions made by learned counsel for the petitioners and upon perusal of the record, we find that the submissions that have been made at the bar by learned counsel for the petitioner are petitioner's defence which is not liable to be looked into in a writ petition which seeks quashing of the first information report.

6. Moreover, the allegations in the first information report impugned contain the ingredients of a cognizable offence. The

FIR, therefore, cannot be quashed.

7. The writ petition is dismissed however, without prejudice to the rights of the petitioner to apply for bail.

Order Date :- 27.10.2023

Aditya Tripathi