

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 14321 of 2023

Petitioner :- Awadh Lal And 2 Others

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

Counsel for Petitioner :- Vinod Kumar Maurya, Sanjay, Syed Mohammad Abbas Abdy

Counsel for Respondent :- G.A., Arun Kumar, Birendra Kumar Gautam

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Shri Syed Mohammad Abbas Abdy, learned counsel for the petitioners, Shri Birendra Kumar Guatam, learned counsel for the informant and Shri G.P. Singh, learned A.G.A for the State respondents.

2. The relief sought in this petition is for quashing of the First Information Report dated 09.08.2023, registered as Case Crime No. 0257 of 2023, under Sections 419, 420, 467, 468, 471, 504, 506 IPC, Police Station Rani Ki Saray, District Azamgarh. Further prayer has been made not to arrest the petitioners in the aforesaid case.

3. Vide order dated 26.09.2023 learned AGA was directed to obtain fresh instructions in the matter.

4. Submission of the learned counsel for the petitioners is that the petitioners are not at all connected with the offence as alleged in the present First Information Report. It is further submitted that the petitioners have neither taken any money from the informant or any other persons nor they are the investors in the company; they are in fact the government teachers and they have never promised the informant or any other persons to double the money invested by them. Submission, therefore, is that they have been falsely implicated in the present case.

5. Per contra, learned counsel for the informant has produced photocopies of the certain documents which indicates that the petitioners have promised to return the money.

6. We are not inclined to form our opinion on the basis of said documents as it is the subject matter of investigation and as per learned AGA the investigation is still going on.

7. Learned AGA submits that statements recorded upto now reflects that allegation against the petitioners that they have promised to double the money, therefore, a cognizable offence is made out.

8. We also find from bare reading of the impugned First Information Report that a cognizable offence is made out as the allegation is that the petitioners, who are working as government teacher in the Government College, have promised to double the money within five years and six months and have taken more than Rs. 62,00,000/- in cash and through cheques and even bonds so given were also taken back by them on promise of re-payment. We also find that the defence of the petitioners that they are not at all connected with the offence as alleged is nothing but the defence of the petitioners which cannot be considered for purpose of quashing of the impugned First Information Report.

9. 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.

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

Order Date :- 16.10.2023

Nitendra