

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17231 of 2023

Petitioner :- Sumit Pawar

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

Counsel for Petitioner :- Narendra Mohan, Noor Saba Begum

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Ms. Noor Saba Begum, learned counsel for the petitioner 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 F.I.R. dated 17.07.2022 registered as Case Crime No. 0005 of 2022, under Sections 419, 420 IPC and Section 66D I.T. Act, Police Station Cyber Crime, Moradabad, District Cyber Crime Head Quarter, Moradabad. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Submission of the learned counsel for the petitioner is that the informant in the present case is the police personnel and the impugned FIR has been lodged after 7 months. It is submitted that present criminal prosecution is absolutely *mala fide* in nature. It is further submitted that the impugned First Information Report has been lodged against unknown person and the petitioner has come to know about this when the notice under section 41-A having been issued on 26.07.2023. Lastly, it is submitted that the petitioner is not at all connected with the offence as alleged.

4. *Per contra*, learned AGA opposed the petition and submits that it is a case of cyber crime and specific details about the account number, bank and amount have been given and during investigation involvement of the petitioner was found, therefore, a cognizable offence of serious nature is made out.

5. 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.

6. The writ petition is devoid of merit and is accordingly dismissed.

Order Date :- 3.11.2023

Nitendra