

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10271 of 2023

Applicant :- Sahdev Singh Alias Aadhar And 2 Others

Opposite Party :- State Of U.P. .And Another

Counsel for Applicant :- Mahendra Kumar Yadav, Shiv Bhushan Singh

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. In compliance of the earlier order dated 17.11.2023 and 23.11.2023 S.I. Mukul Kumar, the I.O. of the case is personally present before the Court.

2. A compliance affidavit has been submitted by the I.O. annexing therewith a copy of the G.D. which prima facie shows that on 17.11.2023 he had been sent to district Firozabad for service of process in Case No. 47 of 2016 in case crime no. 56 of 2015 under Sections 363, 366, 376 I.P.C. and Section 4 POCSO Act. It has been submitted that due to the aforesaid official duty, the I.O. was unable to appear before this Court, he is not a willful defaulter and the absence was not deliberate. An unconditional apology has also been seeks by the I.O. present before this Court.

3. Personal presence of the I.O. is exempted.

4. Learned AGA submitted that the offences levelled against the applicants are punishable with the imprisonment for a maximum period upto seven years. It is further submitted that a notice under Section 41-A Cr.P.C. has been given to the accused applicants in this matter by the police, and as such the applicants have no reason to believe that they have been arrested by the police.

5. In view of the above, since the accused applicants have no apprehension of arrest and also keeping in view the fact that the in such type of cases, the accused applicants are already protected from arrest by virtue of specific provision of Section 41-A Cr.P.C. and also in view of the judgement of the Apex Court passed in **Arnesh Kumar vs. State of Bihar and another, (2014) 8 SCC 273** and also in Criminal Appeal No. 2207 of 2023 (**Md. Asfak Alam Vs. State of Jharkhand & Anr**) **2023 INSC 660** delivered on 31.7.2023, Hence, there is no need to proceed further in the

matter.

6. Accordingly, this application is **disposed of**.

Order Date :- 29.11.2023

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