

Court No. - 91

Case :- APPLICATION U/S 482 No. - 33938 of 2023

Applicant :- Wahid Ali

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

Counsel for Applicant :- Sanjay Shukla

Counsel for Opposite Party :- G.A.,Anand Swaroop Gautam

Hon'ble Gajendra Kumar,J.

1. Heard learned counsel for the applicant, learned counsel for the opposite party no.2 and the learned AGA appearing for the State.
2. The present application under Section 482 Cr.P.C. has been filed by the applicant with the prayer to quash the entire proceedings as well as summoning order dated 28.11.2022 passed in Complaint Case No.1897 of 2017, under Sections 302, 201 IPC, Police Station Badhalganj, District - Gorakhpur.
3. It is submitted by the learned counsel for the applicant that the complaint was filed on the basis of false facts and also on the basis of malice. It is further submitted that from the version of the complaint as well as statement of witnesses, offence under the aforesaid Sections is not made out against the applicant. General allegations have been made in the complaint. The impugned order suffers from illegality and infirmity.
4. On the other hand, learned AGA has opposed the prayer.
5. Having regard to the facts and circumstances of the case, after perusing the entire record and having considered the submissions made by the learned counsel for the parties, I am of the view that no case is made out to interfere with the impugned order. The impugned order does not suffer from any infirmity or illegality. The Magistrate dealing with complaint at this stage has to see only prima-facie case and it cannot be said that no prima-facie case is made out against the applicant. Further, the plea raised before this Court would require leading of evidence, which can be raised before the court concerned at the appropriate Stage. Hence, the prayer made in the present application is refused.
6. At this stage, learned counsel for the applicant prays that a direction may be issued to the court below for expeditious disposal

of the bail application of the applicant.

7. Hence, it is directed that in case the applicant 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.

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

9. With the above observations, the application stands **disposed of**.

Order Date :- 18.10.2023

Sanjeet