

Court No. - 88

Case :- APPLICATION U/S 482 No. - 34968 of 2023

Applicant :- Manoj Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashish Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

1-Heard learned counsel for the applicant, learned Additional Government Advocate for the State of U.P./opposite party no.1 and perused the record.

2-This application under Section 482 Cr.P.C. has been filed by the applicant with a prayer to quash the order dated 10.08.2023 issued under Section 82 Cr.P.C. and criminal proceedings of case crime no. 167 of 2023, under Section 3(1) U.P. Gangster Act, Police Station Ahraula, District Azamgarh.

3-It is submitted by learned counsel for the applicant that the proceeding under Section 3(1) of U.P. Gangster Act has been initiated against the applicant on the basis of F.I.R. dated 19.12.2021 registered at Case Crime No. 0209 of 2021, under Sections 406 and 506 I.P.C., in which after culmination of investigation, charge-sheet has been submitted on 08.04.2022 but the record of the said case is missing from the concerned court below. The averment in this regard has been mentioned in paragraph no. 5 of the supplementary affidavit. He further submits that the investigation in this case is still going on and the applicant undertakes that he will cooperate in the investigation. Relying upon the judgment of the Division Bench of this Court in the case of Asim @ Hassim Vs. State of U.P. and Another, Criminal Misc. Writ Petition No. 18729 of 2023; decided on 02.12.2023, it is next submitted that the first information report was registered under Section 3(1) of Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 without mentioning the corresponding provisions, therefore, the same is not justified categorizing the applicant as a 'gangster'.

4-Learned A.G.A. for the State of U.P. submits that on non co-operation of the applicant in the investigation, order U/s 82 Cr.P.C. has been passed, however, he does not dispute the factual aspects of the matter as argued on behalf of the applicant.

5-Considering the facts and circumstances of the case, it is directed that the applicant shall surrender before the concerned court below within three weeks from today and in case applies for bail, the bail application of the applicant shall be disposed of expeditiously by the courts below in accordance with law and keeping in view the guidelines as laid down by the Apex Court in the case of Satender Kumar Antil vs Central Bureau of Investigation and another, reported in 2021 SCC Online SC 922.

6-For the period of three weeks from today or till the time of surrender of the applicant before the concerned court below, whichever is earlier, he shall not be arrested in the above case.

7-With the above observations and directions, this application under Section 482 Cr.P.C. is disposed of.

Order Date :- 12.12.2023

Saurabh