

**Court No. - 93**

**Case :-** APPLICATION U/S 482 No. - 36792 of 2023

**Applicant :-** Anuj Kumar

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

**Counsel for Applicant :-** Prashant Shukla, Nitin Sharma

**Counsel for Opposite Party :-** G.A.

**Hon'ble Arun Kumar Singh Deshwal, J.**

1. Heard Sri Nitin Sharma, learned counsel for the applicant and Sri Brijesh Kumar Dwivedi, learned A.G.A. for the State.
2. The contention of learned Counsel for the applicant is that he had challenged the quashing the summoning order dated 6.2.2019 passed by the Addl. Session Judge, VIII, Mainpuri, District Mainpuri, as well as entire proceedings in Misc. Case No.28 of 2018, Smt. Saroj Vs. Anuj Kumar and others, under Sections-376 IPC & 3/4 POCSO Act, Police Station Kotwali, District Mainpuri, by way of Application under Section 482 No.13631 of 2019.
3. This Court, while disposing the application, directed vide order dated 11.4.2019 that if the applicant appears before the court below and moves a discharge application/bail application, the same shall be considered and disposed of by the court below. on the say day.
4. It was further directed that for a period of four weeks from today, no coercive action shall be taken against the applicant.
5. In pursuance of the above order of this Court, the applicant moved a discharged application on 24.4.2019. Though the order-sheet shows that the aforesaid discharge application was rejected for want of prosecution vide order dated 3.2.2021 but the order-sheet also shows that during the COVID-19 protocol, the aforesaid application was again fixed for hearing on 25.2.2022 and the same was remained pending. Subsequent of issuance of warrant against the applicant, he moved an application on 20.7.2023 for recalling the non-bailable warrant. The aforesaid application was rejected by the impugned order dated 10.8.2023 on the ground that discharge application was already rejected on 3.2.2021 for want of prosecution. As there are contradictory orders in the order-sheet regarding pendency of discharge application, therefore, it would be appropriate that applicant will file fresh discharge application within 2 weeks and the same shall be decided by the court below within 4 weeks and no coercive action shall be taken against the applicant in Special Trial No.46 of 2019 (Smt. Saroj Vs. Anuj Kumar and others) pending before Special Judge, POCSO Act/District and Session Judge, Mainpuri, for the period of 4 weeks.
6. It is made clear that this concession has been granted to the applicant considering the fact that he is posted as Naval Officer and no further time will be granted for pursuing discharge application.

7. With the aforesaid observations, the application is disposed of.

**Order Date :- 8.11.2023**

Irshad