

Court No. - 92

Case :- APPLICATION U/S 482 No. - 37372 of 2023

Applicant :- Om Prakash Singh

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

Counsel for Applicant :- Rakesh Pati Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Rakesh Pati Tiwari, learned counsel for the applicant and Sri K.K. Tripathi, learned A.G.A. for the State.

2. The instant application has been filed seeking quashing of the order dated 05-09-2023 passed by learned Additional Sessions Judge/Special Judge, U.P. Gangster Act and Anti-Social Activities (Prevention) Act, Bhadohi-Gyanpur in S.T. No. 387 of 2021 (State Vs. Om Prakash Singh), arising out of Case Crime No. 262 of 2019, under Section 8/20 of N.D.P.S. Act, P.s. Suriyawan, district Bhadohi, pending in the court of Additional Sessions Judge/Special Judge, U.P. Gangster Act and Anti-Social Activities (Prevention) Act, Bhadohi-Gyanpur.

3. Learned counsel for the applicant submits that only because he is the owner of the truck which was carrying the contraband material, he has been made accused in the instant case. Learned counsel for the applicant further submits that he has already let out the said impugned truck to one Ankur Diwakar, who was running the said truck. To substantiate the aforesaid fact he has filed the Kiraynama/consent letter dated 18-11-2019 annexed as annexure-4 to the instant application.

4. Section 54 of the NDPS Act raises a presumption against the applicant herein which can be rebutted by the applicant during the trial. The document which has been filed as annexure-4 to the instant application cannot be relied at this stage unless it is proved during trial.

5. In view thereof, this Court does not find any illegality in the order dated 05-09-2023 passed by learned Additional Sessions Judge/Special Judge, U.P. Gangster Act and Anti-Social Activities (Prevention) Act, Bhadohi-Gyanpur, therefore, the instant application lacks merit and is hereby **dismissed**.

Order Date :- 17.10.2023

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