

Court No. - 46

Case :- CRIMINAL MISC. WRIT PETITION No. - 15874 of 2023

Petitioner :- Abhishek Paswan @ Bholu

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Adya Prasad Tewari

Counsel for Respondent :- G.A.

Hon'ble Ashwani Kumar Mishra,J.

Hon'ble Syed Aftab Husain Rizvi,J.

Supplementary affidavit filed today is taken on record.

This petition has been filed challenging the First Information Report lodged under Section 3(1) of the U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986, Police Station Khorabar, District Gorakhpur on the ground that this is a solitary case in which petitioner has been implicated and that there is no strict compliance of Rule 12(3) of the Rules framed under the U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986.

Perusal of the record would reveal that petitioner's implication has surfaced on account of his involvement in a previous case crime no.246 of 2023 under Sections 395, 397, 412 IPC, Police Station Khorabar, District Gorakhpur. The materials placed on record by the respondents would clearly reveal that various items looted from the informant have been recovered from the petitioner. The gang-chart refers to the details of the case and contains the approval of the authorities referred to, in the rules. Although we find that present status of the case, which is required to be mentioned has not been specified yet we are not inclined to exercise our powers under Article 226 of the Constitution of India as the implication of petitioner has surfaced in criminal case where certain photographers were called for making of a movie and later their articles were snatched alongwith money. The stolen articles have been recovered from the petitioner. We have perused the First Information Report dated 16.9.2023 which prima facie discloses commissioning of cognizable offence. Charge-sheet has been filed in the aforesaid matter and trial is pending.

We have perused the First Information Report dated 16.9.2023 which prima facie discloses commissioning of cognizable offence. In such circumstances, we are not inclined to invoke our extraordinary jurisdiction under Article 226 of the Constitution of India so as to interfere with the impugned FIR.

The writ petition is, accordingly, dismissed.

Order Date :- 4.12.2023/RA