

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15842 of 2023

Petitioner :- Sunil Kumar

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ghazala Bano Quadri

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Ms. Ghazala Bano Quadri, learned counsel for the petitioner and Shri G.P. Singh, learned A.G.A for the State respondents.

2. The relief sought in this petition is for quashing of the F.I.R. dated 30.07.2021, registered as Case Crime No. 237 of 2021, under Section 420 IPC and Section 66 of the Information Technology Act, 2008, Police Station Phoolpur, District Allahabad/Prayagraj. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Learned counsel for the petitioner submits that he is not at all connected to the allegations made in the impugned First Information Report and only his mobile number is shown to be mentioned in the impugned FIR. He further submits that the impugned FIR has been lodged after a delay of about three years, and the police is unnecessarily harassing the petitioner.

4. *Per contra*, learned AGA opposed the petition and submits that during investigation it is revealed that the petitioner is the subscriber of the mobile number mentioned in the impugned FIR, and through this mobile number certain amounts have been transacted, therefore, the applicant has been arrayed as one of the accused.

5. Be that as it may, *prima facie*, on the plain reading of the impugned First Information Report the commission of cognizable offence is made out, there are allegations of money transfer through mobile number of petitioner, therefore, in view of the law laid down by Hon'ble Supreme Court in the case of ***State of Haryana and others vs. Bhajan Lal and others, 1992 Supp. (1)***

SCC 335 and *M/s Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra*, AIR 2021 SC 1918 and in *Special Leave to Appeal (Crl.) No.3262/2021 (Leelavati Devi @ Leelawati & another vs. the State of Uttar Pradesh)* decided on 07.10.2021, no case has been made out for interference with the impugned First Information Report.

6. The writ petition is ***dismissed*** leaving it open for the petitioner to avail remedies, as available in law.

Order Date :- 17.10.2023

Nitendra