

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15927 of 2023

Petitioner :- Shahanvaj

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Mohd. Aslam

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Shri Mohd. Aslam, learned counsel for the petitioner and learned AGA for the State respondents.

2. Present petition has been filed with a prayer for quashing the F.I.R. dated 20.09.2023 registered as Case Crime No. 325 of 2023, under Section 2/3 U.P. Gangster and Anti Social Activities (Prevention) Act, 1986, Police Station Kotwali Dehat, District Saharanpur with a further prayer not to arrest the petitioner in pursuance of the impugned F.I.R.

3. Submission of learned counsel for the petitioner is that on the basis of sole case, the provisions of Gangster Act has been invoked with mala fide intention and activity of the petitioner is not covered under the definition of Gangster Act as provided under Section 2(b) of the Gangster Act therefore, petitioner has been falsely implicated. Learned counsel for the petitioner has placed reliance on the judgement of this Court in passed in Criminal Misc. Writ Petition No. 5707 of 2021 (Pankaj Singh vs. State of U.P. and 3 Others).

4. Per contra, learned AGA has pointed out that charge sheet has already been submitted in the base FIR wherein two persons were arrested on the spot and who have clearly stated that petitioner is involved in the offence. He also submits that this fact has clearly been mentioned in the FIR as well that the petitioner is engaged in the said case.

5. Learned A.G.A. further submits that present controversy has already been decided by Hon'ble Apex Cour in the case of **Shraddha Gupta vs The State Of Uttar Pradesh** decided on 26 April, 2022 in Criminal Appeal No. 569-570 of 2022 that the provisions of Gangster Act can be imposed on the basis of a solitary case.

6. We have considered the rival submissions and perused the record.

7. Rule 22 of the Gangster Rule, 2001 clearly provides that criminal history is not required and the FIR under the Gangster Act can be registered on the basis of a single case. Hon'ble Apex Court has also held the same in *Shraddha Gupta* (supra).

8. We find that at the time of delivery of aforesaid case judgment of Hon'ble Apex Court in the case of **Shraddha Gupta vs The State Of Uttar Pradesh** was not available. Additionally, the Rules, 2021 framed under the Act came into force vide notification dated 27.12.2021 were also not available and naturally have not been considered in Pankaj Singh (supra), therefore, the aforesaid judgment is clearly distinguishable.

9. In view of the above, we do not find any good ground to show interference in the present matter.

10. Accordingly, the writ petition stands dismissed.

Order Date :- 18.10.2023

Ujjawal