Court No. - 87

Case :- APPLICATION U/S 482 No. - 39398 of 2023

Applicant :- Aniket
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Prakash Chandra Tripathi
Counsel for Opposite Party :- G.A.

Hon'ble Neeraj Tiwari,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.

2.The present 482 Cr.P.C. application has been filed to quash the summoning order dated 18.11.2021 & NBW dated 19.9.2022 as well as entire proceedings of Session Trial No. 44 of 2018, arising out of Case Crime No. 170 of 2017, under Sections- 302, 201 IPC, Police Station- Gola, District- Gorakhpur.

3. The contention of learned counsel for the applicant is that no offence against the applicant is disclosed and the present prosecution has been instituted with a malafide intention for the purpose of causing harassment. He pointed out certain documents and statements in support of his contention.

4. From the perusal of the material on record and looking into the facts of the case at this stage it cannot be said that no offence is made out against the applicant at this stage. All the submissions made at the bar, relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under Section 482 Cr.P.C. At this stage only prima facie case is to be seen in the light of the law laid down by Supreme Court in cases of ***R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283***. The disputed defence of the accused cannot be considered at this stage.

5. At this stage, learned counsel for the applicant submitted that applicant is ready to surrender before the trial Court for obtaining bail and for that some protection may be granted to him.

6. However considering the aforesaid alternative prayer made by learned counsel for the applicant, it is directed that the applicant shall surrender before the concerned court below within four weeks from today and in case he applies for bail, the bail application of the applicant shall be disposed of expeditiously by the courts below in accordance with law and keeping in view the guidelines as laid down by the Apex Court in the case of ***Satender Kumar Antil vs Central Bureau of Investigation and another***, reported in 2021 SCC Online SC 922.

7. For the period of two weeks from today or till the time of surrender of the applicant before the concerned court below, whichever is earlier, he shall not be arrested in the above case.

8. With the above observations and directions, this application under Section 482 Cr.P.C. is **disposed of**.

Order Date :- 2.11.2023
Junaid

Digitally signed by :-
JUNAID AHMAD
High Court of Judicature at Allahabad