

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 16855 of 2023

Petitioner :- Brijesh Yadav

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Vinay Kumar Bharti,Vikas Rastogi

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Vikas Rastogi, learned counsel for the petitioner and Sri Ratan 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 10.10.2023, registered as Case Crime No. 0163 of 2023, under Sections 353, 323, 504, 506, 427, 398 IPC & 7 Criminal Law (Amendment) Act, 1932, Police Station Ranipur, District Mau. Further prayer has been made not to arrest the petitioner in the aforesaid case.
3. Learned AGA opposed the prayer for quashing of the FIR, which discloses cognizable offence.
4. We also find that one of the co-accused- Lal Bahadur Yadav had approached this Court by filing a writ petition being Criminal Misc. Writ Petition No. 17206 of 2023 (Lal Bahadur Yadav vs. State of UP and 2 others), which was dismissed by a co-ordinate Bench of this Court on 02.11.2023. The said order is quoted as under:

"Heard learned counsel for the petitioner, learned A.G.A. appearing for the State-respondents and perused the record.

By means of this writ petition under Article 226 of the Constitution of India, the petitioner is assailing the legality and validity of the FIR dated 10.10.2023 registered as Case Crime No. 0163 of 2023, under Sections 353, 323, 504, 506, 427, 398 I.P.C. & 7 Criminal Law (Amendment) Act, 1932, Police Station Ranipur, District Mau.

Upon hearing learned counsel for the parties and upon a perusal of the record, we are of the considered opinion that the cognizable offence is made out against the petitioner and there is no occasion or reason to quash the FIR in exercise of power conferred under Article 226 of the Constitution of India.

Accordingly, the prayer for quashing the FIR is declined and refused.

However, it is open for the petitioner, if so advised, he shall move proper anticipatory bail application before the appropriate forum, within 15 days from today.

It is also made clear that the Court is not expressing any opinion on the merits of the case. The court concerned is expected to apply its robust and judicial discretion in deciding the anticipatory bail application as early as possible.

With the above observation, the writ petition is disposed of. "

5. In such view of the matter, we do not find any good ground to take a different in view in the matter.

6. However, 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.

7. Therefore, the writ petition is devoid of merit and is accordingly ***dismissed***.

Order Date :- 20.11.2023

Shubham Arya