

Court No. - 90

Case :- APPLICATION U/S 482 No. - 40125 of 2023

Applicant :- Rohan Srivastava

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Abhishek Srivastava, Prama

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak, J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State-respondent.
2. The applicant has invoked the inherent jurisdiction of this Court to quash the order dated 14.6.2023, charge-sheet dated 24.5.2023 as well as the entire proceedings of Sessions Trial No. 429 of 2023 (State Vs. Rohan Srivastava and others), arising out of Case Crime No. 61 of 2023, under Sections 419, 420, 467, 468, 471, 274, 275, 276 and 120-B I.P.C. and Sections 18-B and 27 of Drugs and Cosmetics Act, 1940, P.S. Sigra, District Varanasi, pending in the Court of learned Additional Sessions Judge, Court No.11, District Varanasi.
3. As per F.I.R. version, on the information received from the informer, Police has raided the house in question, wherein spurious drugs (medicine) have been found from the possession of one Ashok Kumar. On the disclosure made by the said accused, who has been arrested from the spot, other accused persons including the present applicant, have been inculpated for the offence of cheating, forgery, sale of adulterated drugs and criminal conspiracy.
4. It is submitted by learned counsel for the applicant that the present applicant has illegally been inculpated in the FIR only on the basis of statement made by Mr. Ashok Kumar, who was arrested from the spot. As per his submission, present applicant, who possess valid license in drug dealing, has purchased the drugs from the whole-seller. Therefore, present applicant cannot be held liable for any spurious drugs, inasmuch as, there is no allegation against him for manufacturing/making of any adulterated-drug, as mentioned in the FIR. It is further submitted that by any stretch of imagination, present applicant cannot be held guilty for the offence under the Drugs and Cosmetics Act, 1940.
5. Per contra, learned A.G.A. has vehemently opposed the submissions as raised by learned counsel for the applicant and supported the charge-sheet as well the cognizance order passed by the court concerned.
6. Having considered the rival submissions advanced by learned counsel for the applicant as well as learned A.G.A. and perusal of record, it is manifested that after considering the material evidence on record filed along with the charge-sheet, learned court concerned has taken the cognizance and issued the summons against

the present applicant. As per F.I.R., Mr. Ashok Kumar, who was arrested from the spot, has taken the name of the present applicant along with other accused persons to whom he supplies drugs. In the charge-sheet, Investigation Officer has mentioned the confession made by Mr. Ashok Kumar who disclosed the nexus of several persons belongs to difference place, including present applicant, showing their involvement in the business of adulterated drugs.

7. In the facts and circumstances of the present case, prima facie, it cannot be said that the present applicant was not aware of the drugs which was sold to him and other accused, therefore, the complicity of the present applicant in commission of crime, cannot be ruled out at this stage. The innocence of the present applicant, as is being tried to put forward by learned counsel for the applicant, is a matter of scrutiny which can be adjudicated upon more appropriately by the trial court, after apprising the evidence on record. At this juncture, while exercising the inherent jurisdiction under Section 482 Cr.P.C., this Court is not accepted to conduct a mini trial to infer the innocence of the present applicant. While dealing with the drugs in violation of Drugs and Cosmetics Act, 1940, there is neither any abuse of process of Court in a proceeding initiated against the present applicant nor there is any justifiable ground to pass an order to secure the ends of justice, in exercise of inherent jurisdiction.

8. Having considered the rival submissions advanced by learned counsel for the applicant and learned AGA and the material available on record, no ground made out to consider the merits of the instant case. As such, prayer of quashing as made in instant application is hereby refused.

9. Before parting, learned counsel for the applicant submits that in all sections, as mentioned in the FIR, maximum punishment is seven years or less than 7 years, therefore, the bail application if filed by the present applicant may be considered in the light of the dictum of Hon'ble Supreme Court in the case of ***Satender Kumar Antil Vs. Central Bureau of Investigation and another reported in (2021) 10 Supreme Court Cases 773***. In the cited case, Hon'ble Supreme Court has given certain guidelines for deciding the bail applications by categorising the offences.

10. Considering the entire facts and circumstances of the case and the dictum of Hon'ble Supreme Court, I think it appropriate that in case, the present applicant appears/surrenders before the concerned court below and moves bail application within two weeks from today, the same shall be considered and decided in accordance with law, considering the judgment of Hon'ble Supreme Court, expeditiously as early as possible.

11. With the aforesaid observation, the application is **disposed of**.

Order Date :- 1.11.2023

CS/-