

Court No. - 91

Case :- APPLICATION U/S 482 No. - 40800 of 2023

Applicant :- Aas Mohamad

**Opposite Party :- State Of U.P. Through Its Principal Secretary
And Another**

Counsel for Applicant :- Atul Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

1. Heard learned counsel for applicant and the learned A.G.A. for State.
2. The present application under Section 482 Cr.P.C. has been filed by the applicant to quash the entire proceedings of the case including the summoning order dated 15.9.2010, passed by learned C.J.M. Muzaffar Nagar in Complaint Case No.5432/9 of 2010 (State of U.P. vs. Aas Mohammad) for the offences u/s 18/27 the Drugs and Cosmetics Act, 1940, Police Station Shahpur, District Muzaffar Nagar, during the pendency of the preset application.
3. The contention of the 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 purposes of harassment. He pointed out certain documents and statements in support of his contention. On the same set of facts an FIR was lodged u/s 18/27 Drugs and Cosmetic Act and 420, 274, 275 IPC. After investigation, charge sheet was submitted on 21.8.2010 and cognizance was taken and the applicant is on bail in that case. It is further submitted that on the same set of facts a complaint case was filed which was registered as complaint case no.5432/10 and the applicant was summoned therein and NBW has been issued against the applicant. The main submission of learned counsel is that on the same set of facts two criminal proceedings are being initiated and continuing against the applicant which is nothing but an abuse of process of court.
4. Learned AGA has opposed the prayer and contended that the applicant can move an application before the trial court u/s 210 Cr.P.C. and both the proceedings can be jointly taken.
5. Considering the facts and circumstances of the case, I do not

find any ground to quash the criminal proceedings including summoning order dated 15.09.2010, therefore, the prayer for quashing the same is hereby refused.

6. At this stage, learned counsel for the applicant submits that applicant may be permitted to move discharge application before the court concerned and prayed that some protection may be provided to the applicant.

7. Considering the request of the applicant and in view of the entirety of facts and circumstances of the case, it is provided that if the applicant appears and moves an appropriate application for discharge under section 245(2) Cr.P.C. through counsel before the court below within four weeks from the date of receipt of a certified copy of this order then the application of the applicant shall be considered and decided expeditiously preferably within a period of two months from the date of filing of discharge application in accordance with law.

8. Accordingly, the present application is **disposed of**.

9. For a period of four weeks, no coercive action shall be taken against the applicants in the aforesaid case.

Order Date :- 17.11.2023

m.a.