

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17422 of 2023

Petitioner :- Manish

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

Counsel for Petitioner :- Alok Kumar Srivastava, Yogesh Kumar

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Shri Alok Kumar Srivastava, learned counsel for the petitioner and Shri Virendra Kumar Pal, learned A.G.A. for the State.

2. The present writ petition has been preferred with the prayer to quash the impugned First Information Report dated 24.07.2023, registered as Case Crime No. 388 of 2023, under Sections 2, 3(1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station- Dadri, District- Greater Noida (Commissionerate, Guatam Budh Nagar), and for a direction to the respondents not to arrest the petitioner in pursuance of the impugned First Information Report.

3. Submission of the learned counsel for the petitioner is that the impugned First Information Report is based on false and frivolous ground and there is no material to show that the petitioner is a gang leader and is operating a gang. It is further submitted that the impugned FIR has been lodged only on the basis of three cases and the same is nothing but the abuse of process of law. It was also submitted that while preparing gang chart, provisions of U.P. Gangsters and Anti-Social Activities (Prevention) Rules, 2021, have not been followed. Attention was drawn to Rules 5, 10, 16 and 17 of U.P. Gangsters and Anti-Social Activities (Prevention) Rules, 2021, in support of his arguments.

4. *Per contra*, by drawing attention to endorsement made by the Authority concerned on the gang chart at page 35 of the paper book, it is submitted by the learned AGA that subjective satisfaction has been duly recorded by the Authority concerned and there are three criminal cases including serious offences under Sections 392, 395 and 307 IPC has already been registered against

the petitioners and in all three cases chargesheets have been submitted, cognizance whereof has already been taken. It is further submitted that the petitioner is a gang leader and as such no interference is warranted in the present case. In support of his argument he has placed reliance upon the judgment rendered by Hon'ble the Apex Court in the case of ***Shraddha Gupta Vs. State of U.P. and others (Criminal Appeal Nos.569-570 of 2022, decided on 26.04.2022)*** and submits that for a single offence/FIR, an accused person can be prosecuted under the U.P. Gangster and Anti Social Activities (Prevention) Act, 1986. He next submitted that there is no violation of U.P. Gangsters and Anti-Social Activities (Prevention) Rules, 2021.

5. Perusal of records we find that the petitioner is a gang leader and three criminal cases are standing against him in which chargesheets have already been submitted and insofar as the violation of U.P. Gangsters and Anti-Social Activities (Prevention) Rules, 2021, are concerned, we find that the entire scheme of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, as well as the rules framed thereunder have already been considered by this Court in detail in ***Ambuj Parag Dubey And 2 Others Vs. State Of U.P. And 2 Others, 2022 (4) ACR 3878*** and in ***Criminal Misc. Writ Petition No. 2683 of 2023, Virendra Kasaudhan Vs. State Of U.P. And 3 Others, decided on 19.04.2023.***

6. The writ petition is devoid of merits and is accordingly, dismissed.

Order Date :- 28.11.2023

Nitendra