

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17783 of 2023

Petitioner :- Jai Prakash Mishra

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

Counsel for Petitioner :- Amarnath Tripathi

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Manish Kumar Nigam,J.

1. Heard Shri Amarnath Tripathi, learned counsel for the petitioner, Shri G.P. Singh, learned AGA for the State-Respondents and perused the records.

2. By means of present petition the petitioner is seeking quashing of the impugned First Information Report dated 02.08.2023, registered as Case Crime no.0255 of 2023, under section 3(1) of U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986, Police Station Baragaon, District Varanasi. Further prayer has been made not to arrest the petitioner pursuant to said FIR.

3. Submission of the learned counsel for the petitioner is that the dispute herein is purely civil in nature and is with regard to money transaction and the gang leader, Ajay Kumar Mishra, who is the real brother of the petitioner herein has returned the entire amount so involved in the present case. It is further submitted that the offence as alleged are of the year 2021 and the provisions of Gangster Act are being invoked at a belated stage and the same cannot be invoked against the petitioner as the petitioner has no concerned with his brother who is living separately.

4. *Per contra*, learned AGA opposed the petition and pointed out that there are five cases mentioned in the gang chart against the petitioner and in all five cases chargesheets have already been submitted. In so far as the argument of the learned counsel for the petitioner that the cases are three years old are concerned, Rule 4(2) of the Uttar Pradesh Gangster and Anti Social Activities (Prevention) Rules, 2021 provides that cases falls within three years can be considered for purposes of invoking the Gangster Act. Learned AGA further pointed out that apart from cases mentioned in the gang chart the petitioner has criminal history of 10 other

cases of similar nature. Learned AGA 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.

5. 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. In view of the above, we do not find any illegality in the preparation of gang chart.

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

Order Date :- 16.11.2023

Nitendra