

Court No. - 93

Case :- APPLICATION U/S 482 No. - 42380 of 2023

Applicant :- Diwakar Singh

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

Counsel for Applicant :- Dhirendra Babu Mishra, Abhishek Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj, J.

Applicant being accused has approached this Court through this application under Section 482 Code of Criminal Procedure seeking quashing of the order dated 12.10.2021 passed by Additional Civil Judge-VII, Kaushambi in Special Trial No. 209 of 2012, titled State Vs. Belha Singh and others, arising out of Case Crime No. 65 of 1998, under Section 2/3 U.P. Gangster and Anti Social Activities (Prevention) Act, 1986, Police Station Paschim Sarira, District Kaushambi, whereby non bailable warrants have been issued against him to secure his presence.

Learned counsel for applicant submits that applicant-accused had appeared before the trial court on 9.4.2021 and thereafter, the second wave of Covid-19 erupted, consequently, the applicant was prevented to appear before the trial court in the above mentioned case. He submits that on the basis of non appearance of the applicant, the trial court issued non bailable warrants against him vide order dated 12.10.2021. He submits that warrants have been issued hastily and the same being illegal and

arbitrary, are unsustainable in the eyes of law. He prays that the impugned order dated 12.10.2021 be set-aside and the applicant be allowed to join the trial proceedings once again.

During the course of hearing, it is not disputed by learned counsel for applicant that previously also the applicant absented during the trial proceedings and coercive steps were taken against him for securing his presence. However, pursuant to the order dated 28.8.2014 passed by this Court, he had joined the proceedings.

Upon hearing the learned counsel for applicant and considering the submissions as well the background of this case, it comes out that no doubt there was unusual situation in entire nation because of break out of pandemic Covid-19, but that did not last long and the impugned order was passed on 12.10.2021. The application to challenge the said order has been filed after a long gap of two years and despite normalization of the living conditions, the applicant did not make any effort to rejoin the proceedings, much less by moving the application before the trial court for recall of the warrants.

Thus, in the given facts, this Court is not inclined to exercise inherent powers under Section 482 Cr.P.C. The application is dismissed.

Order Date :- 20.11.2023

P.S.Parihar