

Court No. - 93

Case :- APPLICATION U/S 482 No. - 43514 of 2023

Applicant :- Sadakat

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

Counsel for Applicant :- Anwar Hussain

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj,J.

Applicant is aggrieved against the order dated 16.1.2023/ 16.3.2023 passed by Special Judge, Dacoity Affected Area, District Kannauj whereby, in Case Crime No. 886 of 2022, under Section 394 I.P.C., Police Station Kotwali Kannauj, District Kannauj, he has been declared as proclaimed person.

Learned counsel for applicant submits that trial court has shown undue haste in straightway initiating the proceedings under Section 82 of Code of Criminal Procedure against the applicant, as prior to this, no ordinary process for presence of the applicant was followed. He refers to the application dated 16.1.2023 filed by the prosecution and submitted that only once the non bailable warrants against the applicant were issued on 16.12.2022 and on the request of the prosecution, the proceedings were initiated solely on the ground that the ordinary process to secure his presence is ineffective.

Learned counsel for applicant refers to the averments contained in para 13 of the affidavit and submitted that his application for pre-arrest bail

under Section 438 Cr.P.C. was dismissed by the court of sessions on 3.3.2023, therefore, he approached this Court through petition bearing Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No. 3762 of 2023, but the same was not entertained as the applicant stood declared as proclaimed persons. He prays that in these facts, the interference by this Court is warranted.

During the course of hearing, it is not disputed by learned counsel that applicant is involved in number of other cases and in this regard, he has referred to the averments contained in para 21 of the affidavit and according to it, the applicant is involved in eight other cases of different nature apart from the Case Crime No. 886 of 2022.

Upon hearing the learned counsel and considering his submissions, this Court does not find any merit in this case as it seems that the applicant is closely watching the proceedings and has chosen not to appear despite the issuance of warrants by the court. The argument that his application for pre-arrest bail under Section 438 Cr.P.C. was not entertained by this Court is factually incorrect as his application was dismissed by this Court on 7.7.2023 solely on the conduct of the applicant. The order dated 7.7.2023 reads as under:-

1. None is present on behalf of the applicant even in the revised call. Learned A.G.A. for the State is present.

2. For the last few dates, no one has been appearing for the applicant. It appears that the applicant is no more interested in the proceedings of this anticipatory bail application.

3. Anticipatory bail application u/s 438 Cr.P.C. is dismissed for want of prosecution.

4. Interim order, if any, stands vacated.

The above makes absolutely clear that once the applicant having invoked the jurisdiction of this Court under Section 438 Cr.P.C. chose to abandon the same without giving any justifiable reason, and at the same time, has tried to twist the facts by raising a ground that the application was not entertained as he stood declared as proclaimed person. He has failed to show any order in this regard.

Considering the above and finding no merit in this case, the application fails and is dismissed.

Order Date :- 29.11.2023
P.S.Parihar