

Court No. - 46

Case :- CRIMINAL MISC. WRIT PETITION No. - 18107 of 2023

Petitioner :- Farhat Ansari

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Ajay Srivastava, Upendra Upadhyay

Counsel for Respondent :- G.A.

Hon'ble Ashwani Kumar Mishra, J.

Hon'ble Syed Aftab Husain Rizvi, J.

1. Petitioner has established a petrol-pump at District-Ghazipur, which is functional since 2019. It transpires that proceedings under the Gangster Act have been initiated against the petitioner on the premise that the petrol-pump has been established from the funds invested by a gangster. An order of attachment of property has been passed under Section 14 (1) of the Uttar Pradesh *Gangsters and Anti-Social Activities (Prevention) Act*, 1986. The petrol-pump has also been seized by the authorities. A notice under Section 14 (1) of the Act, 1986, was issued to the petitioner on 26.7.2023.

2. The present writ petition has been filed contending that the authorities cannot seize the petitioner's petrol-pump and the allegation that the petrol-pump has been set up from the proceeds of crime earned by a gangster is factually incorrect. Various documents including the income-tax returns, etc. have been filed in support of such contention.

3. The writ petition was taken up on 22.11.2023 and was adjourned on the request of learned Additional Advocate General to obtain instructions in the matter. When the matter is taken up today, learned Additional Advocate General has placed before the Court an order dated 10.11.2023 passed by District

Magistrate, Ghazipur, whereby attachment proceedings have been transmitted to the concerned Gangster-court for judicial inquiry under Section 16 (1) of the Act, 1986, after noticing that no representation against attachment has been made by the petitioner before the District Magistrate.

4. On behalf of petitioner, it is stated that reference has been made much later, inasmuch as, the proceedings have been received in the court concerned only on 28th November, 2023. It is also pointed out that the writ petition was filed on 9th November, 2023, before this Court.

5. Learned counsel for the petitioner states that even though the issue of release of property requires determination in judicial proceedings, yet there is no occasion for the District Magistrate to have seized the petrol-pump, particularly, as the limited jurisdiction available with the authorities is to pass an order of attachment and not to seal the premises. Various photographs have also been annexed in order to show that petrol-pump has been sealed.

6. Learned Additional Advocate General, on the basis of instructions received from the concerned authorities, does not dispute the fact that petrol-pump is lying seized. No order of the District Magistrate appointing an Administrator has otherwise been brought on record.

7. In the facts and circumstances of the present case, we are of the view that the issue with regard to release of the property since has been referred to the concerned Gangster-court, an appropriate decision with regard to release of the property would have to be taken by the concerned court. It is otherwise not in dispute that no representation against attachment was made by the petitioner.

8. So far as the seizure of the petrol-pump is concerned, we find that unless there is a specific order appointing the Administrator, it would not be open for the authorities of the State to put any restraint on the running of the petrol-pump. The authorities of the State, therefore, shall ensure that the petitioner be allowed to run the petrol-pump and the accounts thereof would be separately maintained and submitted to the court concerned. This would continue till an appropriate order is passed either by the Competent Authority appointing an Administrator or the concerned court exercising powers under Section 16 of the Act.

9. It is also provided that in the event, petitioner moves an application in response to the notices issued by the concerned court under Section 16, the concerned court shall make all endeavour to dispose of the proceedings expeditiously by fixing fortnightly dates without granting unnecessary adjournment.

10. In light of the above directions/observations, the petition stands **disposed of**.

Order Date :- 2.12.2023
LN Tripathi