

Court No. - 93

Case :- APPLICATION U/S 482 No. - 42686 of 2023

Applicant :- Neeraj @ Prabhat

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

Counsel for Applicant :- Ram Govind

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 impugned order dated 21.9.2023 passed by Additional District and Sessions Judge, Court No.5/ Special Judge, (Gangster) Kanpur Dehat in Criminal Case No. 370 of 2020, titled *State Vs. Ajeet Kumar and others*, arising from the final report dated 5.1.2022 filed under Section 173(2) Cr.P.C., whereby, the non bailable warrants have been issued against him to secure his presence.

Learned counsel for applicant submits that after registration of the subject case and during pendency of the investigation, the applicant had previously filed a petition bearing Criminal Misc. Writ Petition No. 7704 of 2020, titled *Neeraj @ Prabhat Vs. State of U.P. and 2 others*, wherein vide order dated 25.8.2020, this Court had stayed the arrest of the applicant till the filing of the final report under Section 173(2) Cr.P.C., but thereafter, as the applicant was not aware of the proceedings of the

said case, the trial court has issued non bailable warrants through impugned order dated 21.9.2023 to secure his presence. He submits that as the applicant is willing to join the trial proceedings, therefore, impugned order be set aside, in the interest of justice.

During the course of hearing, it is not disputed by learned counsel for applicant that pursuant to the order dated 25.8.2020, applicant in compliance thereof, had associated with the investigation, therefore, it cannot be believed that applicant was not aware of the status of the case, much less the stage of the trial before the court.

At this stage, learned counsel for applicant submits that since the applicant had gone out of town in relation to his job, therefore, he was not actually aware of the stage of the trial proceedings.

After hearing the learned counsel for applicant and considering his submissions, this Court does not find any merit in this case as the pendency of trial proceedings are well within his knowledge. The accused after having availed the extraordinary concession of stay of arrest has chosen to disengage himself with the trial proceedings after the submission of the final report under Section 173(2) Cr.P.C., the date when the order dated 25.8.2020 ceased to exist. Since, the applicant had not submitted himself before the court, therefore, in this

compelling situation, the court is justified in issuing the non bailable warrants against him to secure his presence.

Resultantly, finding no merit in this application, the same is dismissed.

Order Date :- 4.12.2023
P.S.Parihar