

Court No. - 93

Case :- APPLICATION U/S 482 No. - 42648 of 2023

Applicant :- Rajmati And 4 Others

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

Counsel for Applicant :- Anup Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj,J.

1. The petitioners are aggrieved against the impugned charge sheet, which has been filed against them pursuant to the investigation conducted in Case Crime No. 14371 of 2019, as well as cognizance/summoning order dated 20.12.2019 passed by Additional Chief Judicial Magistrate (S.D.) court no. 2, Gorakhpur.

2. Learned counsel for the applicants submits that in the first information report only six accused persons were specifically mentioned, whereas in the name of mob fifty more persons were implicated. He next submits that applicants being ladies have been falsely implicated and in fact, they have nothing to do with the alleged occurrence, therefore, the prosecution is not justified. He prays that charge sheet submitted by the police as well as the summoning order dated 20.12.2019 passed qua applicants be set aside.

3. During the course of hearing, it is not disputed by learned counsel for the applicants that the charge sheet was submitted on 6.8.2017 and the same is yet to be considered by the Magistrate.

4. Since the issues raised in this petition can be effectively raised by the applicants before the Magistrate, therefore, in view of the decision of the Hon'ble Supreme Court in the case of **Dharmatma Singh vs. Harinder Singh & Ors. report in Criminal Appeal No.1126 of 2011 (3) RCR Criminal 38**, this Court is no inclined to exercise the

inherent powers under Section 482 Cr.P.C.

5. At this stage learned counsel for the applicants submits that alternatively the applicants be granted the concession of regular bail.

6. Since the applicants have not been arrested so far, therefore, the prayer for grant of regular bail is misconceived and even no such prayer is contained in the petition.

7. Lastly learned counsel for the applicants has drifted a prayer for grant of anticipatory bail in terms of section 438 Cr.P.C.

8. Considering the facts and circumstances of the case as well as the fact that during pendency of the investigation, the applicants never applied for pre-arrest bail and were never arrested, therefore after submission of final report under Section 173(2) Cr.P.C., the apprehension of arrest on the basis of the FIR is also unjustified.

9. In view of the above, the petition is **dismissed**.

Order Date :- 22.11.2023

Faridul