

Court No. - 43

Case :- CRIMINAL MISC. WRIT PETITION No. - 18096 of 2023

Petitioner :- Abdul Rahim

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Puneet Kumar

Counsel for Respondent :- G.A.

Hon'ble Anjani Kumar Mishra,J.

Hon'ble Mohd. Azhar Husain Idrisi,J.

1. Heard learned counsel for the petitioner and learned A.G.A. for the State.

2. The writ petition seeks quashing of the F.I.R. dated 20.10.2023 giving rise to Case Crime No.0370 of 2023, under Sections 2/3 Gangster Act, Police Station- Nakud, District Saharanpur.

3. Learned counsel for the petitioner has not filed gang chart. However, a copy of gang chart has been given by learned A.G.A. to the learned counsel for the petitioner and he has perused the same.

4. The contention of learned counsel for the petitioner is that the F.I.R. was lodged on 20.10.2023 and on that date, the petitioner was minor. Therefore, he cannot be prosecuted under the provisions of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986.

5. Reliance has been placed on School Leaving Certificate annexed as Annexure-3 to the writ petition wherein date of birth of the petitioner is 19.07.2005. Even the certificate itself reflects that the petitioner has attained majority on 18.07.2023. The impugned F.I.R. under the Gangsters Act has been lodged on 20.10.2023. Therefore, on that date the petitioner was major.

6. Only embargo under the Gangsters Act is that no minor can be prosecuted under this Act. The petitioner is being prosecuted under this Act, after attaining majority.

7. Under the circumstances, the submission of learned counsel for the petitioner is without substance.

8. The writ petition accordingly fails and is dismissed, without prejudice to the right of the petitioner to apply for bail.

Order Date :- 7.12.2023

Rmk.