

Court No. - 93

Case :- APPLICATION U/S 482 No. - 43878 of 2023

Applicant :- Furkan And 3 Others

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Maohammd Nadeem

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj,J.

This application u/s 482 Cr.P.C. has been filed by the accused- applicants for quashing the order dated 21.09.2023 passed by Special Judge, POCSO Act/Additional Sessions Judge, Kannauj in Sessions Trial Number 51 of 2016, titled State vs. Furkan and others arising out of case crime no.409 of 2016, under Sections 363, 366 I.P.C. and 3/4 POCSO Act, Police Station- Kotwali Kannauj, District Kannauj, whereby on account of their absence, non-ailable warrants were issued against them to secure their presence.

Learned counsel submits that the applicants were falsely implicated in the above mentioned first information report as the statement of the victim recorded under Section 164 Code of Criminal Procedure, does not implicate them, much less for any offence punishable under Section 376 IPC/ POCSO Act. He submits that the applicants brought the application under Section

482 Code of Criminal Procedure for quashing of the criminal proceedings bearing Application U/S 482 No.29769 of 2016, titled Furkan and 3 others vs. State of U.P. and another, and the same is pending adjudication, wherein vide order dated 29th September, 2016, this Court had granted interim relief that until further orders of this Court, no coercive action shall be taken against the applicants in the subject case.

Learned counsel has argued that despite this interim concession extended to the applicants by this Court, the trial court is insisting for the appearance of the accused and has issued warrants against them to secure their presence. He submits that in the given facts the impugned order is not sustainable, therefore, the same be set aside.

After hearing the learned counsel and considering his submissions, this Court finds that in the previous application filed by the applicants, the Court has only protected the applicants from any coercive action and there is nothing to indicate that it would absolve the applicants from putting in appearance before the court. Concededly, the applicants are not appearing before the court, therefore, the trial court has issued non-bailable warrants. On

account of the absence of the accused, the proceedings may not make any headway, therefore, under these compelling circumstances, it cannot be said that the trial court is unjustified in issuing non-bailable warrants against them.

Resultantly, no case is made out for interference.

This application is dismissed.

Order Date :- 1.12.2023

Raj