

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 18431 of 2023

Petitioner :- Nisha

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

Counsel for Petitioner :- Thakur Prasad Dubey

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Shri T.P. Dubey, learned counsel for the petitioner and Shri Surendra Singh, learned A.G.A for the State respondents.

2. The relief sought in this petition is for quashing of the F.I.R. dated 24.10.2023, registered as Case Crime No. 358 of 2023, under Sections 376 (3) I.P.C. and Sections 3, 4(2), 16, 17 of POCSO Act, Police Station Kanth, District Moradabad. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Submission of learned counsel for the petitioner is that the only allegation against the petitioner is that she had accompanied the victim to the sugarcane field, where co-accused has raped her. It is submitted that no offence, as alleged in the FIR, is made out. It is also submitted that applicant herein is a minor.

4. Per contra, learned A.G.A. submits that in her statement recorded under Section 164 Cr.P.C., the victim has supported the prosecution version and has also named the petitioner herein and heinous offence of rape on a minor girl aged about 14 years has been made out.

5. Perusal of the impugned First Information Report prima facie reveals commission of cognizable offence.

6. Therefore, in view of the law laid down by Hon'ble Supreme Court in the case of **State of Haryana and others vs. Bhajan Lal and others, 1992 Supp. (1) SCC 335** and **M/s Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra, AIR 2021 SC 1918** and in **Special Leave to Appeal (Crl.) No.3262/2021 (Leelavati Devi @ Leelawati & another vs. the State of Uttar**

Pradesh) decided on 07.10.2021, no case has been made out for interference with the impugned first information report.

7. The writ petition is **dismissed**.

Order Date :- 28.11.2023

Shafique