

Court No. - 53

Case :- CRIMINAL MISC. WRIT PETITION No. - 18557 of 2023

Petitioner :- Ritik

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Yogesh Kumar Mishra

Counsel for Respondent :- G.A.

Hon'ble Syed Aftab Husain Rizvi,J.

1. Heard learned counsel for the petitioner as well as learned A.G.A. for the State and perused the material on record.

2. The present writ petition under Article 226 of the Constitution of India has been filed with the prayer to quash the order dated 03.11.2023 passed by Commissioner, Meerut Division, Meerut in Appeal No.1748 of 2023 (Computerized Case No.C-202311000001748) (Ritik Versus State of U.P.) as well as order dated 04.10.2023 passed by Additional Police Commissioner, Commissionerate Ghaziabad in Case No.526 of 2023 (State Versus Ritik), Police Station Modi Nagar, Ghaziabad.

3. Learned counsel for the petitioner has submitted that respondent no.3 vide order dated 04.10.2023 has externed the petitioner on the basis of a single case and another Report No.39 dated 30.03.2023. The order is illegal and improper. Aggrieved by it, the petitioner has preferred an appeal before respondent no.2. Respondent no.2 has admitted the appeal but has rejected the stay application without considering the material on record. It is further submitted that the purpose of appeal will be frustrated, if the order of externment is not stayed.

4. Learned A.G.A. urged that in this case order was passed by respondent no.3 on the basis of material on record. Appeal filed against it is pending. The petitioner may press his appeal before the appellate court.

5. In view of submissions made by rival parties and the facts and circumstances of this case, this petition is finally disposed off with direction to respondent no.2 to decide the appeal in accordance with law by a reasoned and speaking order, after affording proper opportunity of hearing to the parties within a period of two months

from the date of receipt of a certified copy of this order.

6. For a period of two months or till disposal of appeal, whichever is earlier, the externment order dated 04.10.2023 passed by Additional Police Commissioner, Commissionerate Ghaziabad in Case No.526 of 2023 (State Versus Ritik), Police Station Modi Nagar, Ghaziabad shall remain in abeyance.

Order Date :- 5.12.2023

MN/-