Court No. - 53

Case :- CRIMINAL MISC. WRIT PETITION No. - 18840 of 2023

Petitioner :- Honey @ Aakash Verma
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Vinay Kumar Singh Chandel
Counsel for Respondent :- G.A.

Hon'ble Syed Aftab Husain Rizvi,J.

Heard learned counsel for the petitioner and learned AGA for opposite parties as well as perused the record.

By filing this petition a prayer has been made by the petitioner to quash the order dated 3.11.2023 passed by Court of Commissioner in Appeal No. 14/2023 'Vikas Kumar vs. State', under Section 2/3 of Uttar Pradesh Control of Goondas Act, 1970 to the extent of rejection of stay application., whereby the appeal has been admitted for hearing, however, the order of the trial court has not been stayed.

Learned counsel for the petitioner submits that only on the basis of a single case, the proceeding of Goonda Act has been initiated against the petitioner. It is further submitted that without assigning any reason and simply by stating that the petitioner is involved in offence, his stay application has been rejected by the trial court.

Learned AGA submitted that it is settled law that provisions of Goonda Act can be invoked on the behest of a single case also. The appeal is still pending. Hence petitioner has no right to approach this Court without the appeal being finally decided. It is further submitted that petitioner was involved in a single case of attack on police personnel.

The perusal of the impugned order by which the stay application has been rejected reveals that the only ground mentioned in it that case crime no.90 of 2023, G.D. No.120 dated 23.03.2023 was registered and to maintain peace, this order has been passed. So no cogent reason has been assigned for rejecting the stay application.

It is an admitted fact that the petitioner is involved in only one criminal case and apart from that single case no other criminal

activity of the petitioner has been stated in the judgment and order of the trial court.

It has been vehemently submitted by learned counsel for the petitioner that only on the basis of single criminal case the provisions of Goondas Act could not be invoked. It has also been submitted that purpose of appeal will stand frustrated if order of externment is not stayed.

Perusal of the order dated 03.11.2023 shows that no cogent reason has been assigned while rejecting the stay application.

In view of the above, instant writ petition is disposed of with a direction to the appellate authority to dispose of the application of the petitioner moved for staying the order of trial court, afresh, after providing him an opportunity of being heard and also by passing a reasoned order within 30 days from today. Till the decision of the appellate authority on the stay application of the petitioner (appellant), operation of the order dated 05.10.2023 passed by Additional Commissioner of police, Commissionerate, Ghaziabad shall not be given effect to by the authorities.

The appellate authority is also directed to expedite disposal of the appeal filed by the petitioner (appellant) and the same in any case be disposed of within two months form the date a certified copy of this order is produced before it.

Order Date :- 5.12.2023
C. MANI

Digitally signed by :-
CHANDRAMANI VERMA
High Court of Judicature at Allahabad