

Court No. - 93

Case :- APPLICATION U/S 482 No. - 45103 of 2023

Applicant :- Mohd. Irfan

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Manish Kumar, Sumit Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj, J.

Applicant being accused has filed this application under Section 482 Code of Criminal Procedure seeking quashing of the charge sheet dated 15th March, 2014 filed in Case Crime No. 357/2013, under Section 2/3 U.P. Gangster Act, 1986 registered at Police Station Kalpi, District Jalaun as well as the order dated 1st August, 2023 issuing non-bailable warrants and initiating the proceedings under Section 82 Cr.P.C. to secure his presence.

Learned counsel for the applicant submits that after registration of this subject case, the concession of regular bail was extended to him vide order dated 24th May, 2013 and, thereafter, he kept on appearing before the court regularly upto 18th March, 2020. He submits that thereafter there was break out of Covid-19 and he could not appear before the Court, therefore, now the Court has issued warrants to secure his presence as well as order initiating proceedings under Section 82 Cr.P.C. He states that the applicant is willing to surrender before the Court and direction be issued to the trial to decide the bail application filed of the applicant on the same day.

Upon hearing of the learned counsel for the applicant and considering his submission, this Court finds that it is a case where the pendency of the criminal proceedings against the accused are well within his knowledge, who at the time of regular bail had furnished his bonds thereby giving an undertaking

that he would continue to appear before the trial court on each and every date of hearing. There is no justification offered by the learned counsel for his long absence from the trial proceedings as the Covid-19 lost aggression in the end of year 2021. Once the life had returned back to normalcy, it was incumbent upon the accused to rejoin the trial proceedings but he continued with his disengagement deliberately.

In such circumstances, this Court does not find any error of law in the impugned orders passed by the trial court as the proceedings are held up for want of the appearance of the accused. In other words, it is a case of misuse of concession of bail by an accused who has chosen to keep himself away from the trial proceedings without the permission of the court.

Resultantly, this Court is not inclined to exercise inherent powers under Section 482 Cr.P.C.

Dismissed.

Order Date :- 12.12.2023
Brijesh