

Court No. - 12

Case :- APPLICATION U/S 482 No. - 1560 of 2023

Applicant :- Vimlendu Shekhar

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Civil Secy. Lko.
And Another

Counsel for Applicant :- Manjusha Kapil

Counsel for Opposite Party :- G.A., Pramod Kumar Yadav

Hon'ble Rajeev Singh, J.

1. Heard learned counsel for the applicant and Mr. Vishal Singh, learned A.G.A. for the State.

2. Present petition is filed with the following prayer:-

"to stay the execution and implementation of Bailable Warrant order dated 09-09-2022 and stay the further Criminal proceedings of Criminal Case No. 120882/2021, in Kamal Sharif Vs. Vimlendu Shekhar which is pending in the Court of Learned Additional Chief Judicial Magistrate Court No.-V, District- Lucknow, Under Section 138 of N.I. Act. Police station Jankipuram, District Lucknow."

3. On 30.10.2023 following order was passed:-

"1. Heard learned counsel for the applicant and learned A.G.A. for the State.

2. On 19.10.2023, following order was passed.

"1. In pursuance of earlier order, applicant and private respondent are present and they have been duly identified by their respective counsels.

2. Private respondent admitted this fact that cheque of amounting Rs.9,00,000/- was given to the applicant in lieu of some construction work and in the said cheque the amount of G.S.T. @ 18% is also added and in case G.S.T. amount is excluded, then total due amount would be Rs.7,45,000/- and Rs.3,45,000/- has already been received by the private respondent and rest amount of Rs.4,00,000/- to be paid by the applicant.

3. Applicant requested for some time to pay rest amount of Rs.4,00,000/- in the form of bank draft.

4. Prayer is allowed.

5. Ten days time is granted to the applicant to pay rest of the amount to the private respondent.

6. List this case on 30.10.2023.

7. On the next date, applicant is directed to appear before this Court alongwith draft of cheque of Rs.4,00,000/-. Private respondent is also directed to appear before this Court.

8. Interim order, granted earlier, shall continue till the next date of listing."

3. When the case was taken up in the morning, learned counsel for the applicant, Ms. Manjusha Kapil, informed, on the basis of instructions received from the applicant, that the applicant is suffering from dengue and is hospitalised in some hospital at Varansi, on which, it was asked to her to get specific instructions from the applicant about the address of the hospital, in which, he is hospitalised.

4. Again, when the case is taken up, learned counsel for the applicant informs that the applicant is neither hospitalised nor he is suffering from dengue, but is having hay fever. It is also informed that the applicant went to Varansi for arranging money, which is to be deposited, as per the undertaking given by him before this Court.

5. List this case on 07.11.2023 at 11.30 a.m.

6. Commissioner of Police, Varansi is directed to ensure the presence of Vimlendu Shekhar s/o Alok Kumar Rai r/o House No. D-59/373-9, Jai Prakash Nagar, P.S. Sagra, District Varansi, (mobile no. 9044722028, as informed by his counsel) before this Court on the next date."

4. In pursuance of earlier order applicant is present before this court and learned AGA placed instructions duly signed by Sub-Inspector, Arun Pratap Singh, P.S. Sagra, District- Varanasi dated 05.11.2023 and informed that he visited the house of the applicant, D-59, 373-9, Jai Prakash Nagar, P.S. Sagra, District-Varanasi but he was not found and the neighbors informed that since few days back, he is not at the house. He went outside and on his mobile No.-9044722028, he made a call and in conversation he informed that he knew about the next date of the case which is going on before the Hon'ble High Court, the same is listed on 07.11.2023 and he will appear before this Court and he will explain all the facts.

5. Aforesaid written instructions placed by the learned AGA is taken on record.

6. As it is evident from the order sheet that the applicant is trying to mislead this Court, therefore, he is not entitled to get any relief.

7. Accordingly, the present petition is **dismissed**.

8. Trial Court is directed to conclude the trial of the case expeditiously without giving any unnecessary adjournments to either of the parties.

Order Date :- 7.11.2023/Vipul