

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 2171 of 2022

Petitioner :- Salman Alias Chhotey

Respondent :- State Of U.P. Thru. Secy. Deptt. Of Home Civil Secrty.
Lko. And Others

Counsel for Petitioner :- Ravindra Shukla

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

Heard the learned counsel for the petitioner and the learned A.G.A.

This petition has been filed with the following main reliefs:-

"1. To issue a writ order or direction in the nature of certiorari to quash the F.I.R dated 16/02/2022 bearing First Information Report No. 0081/2022, Under Section- 2/3 (1) U. P. Gangsters & Anti- Social Activities (Prevention) Act, Police Station- Gosaiganj, District- Sultanpur lodged by the Opposite Party No. 4 against the petitioner as contained in ANNEXURE NO. 1 to this Writ Petition.

2. To issue a writ order or direction in the nature of mandamus commanding the opposite parties not to take any coercive steps against the petitioner in pursuance of the impugned F.I.R contained in ANNEXURE NO. 1 to this writ petition."

The learned counsel for the petitioner has stated that by the order dated 27.04.2022, the Court had stayed the arrest of the petitioner during the investigation. It has been submitted that the petitioner has been implicated in the impugned FIR only on the basis of one criminal case.

Learned A.G.A. has produced before this Court instructions sent by Dharmendra Kumar Mishra, Sub-Inspector, Police Station-Jaisinghpur, District Sultanpur wherein it has been indicated that during investigation the name of the petitioner as also other co accused was revealed. However, no such item was found in possession of the petitioner.

This Court has gone through the FIR.

Learned A.G.A. has pointed out Rule 22 of Rules of 2021 and the observation made by the Hon'ble Supreme Court in case of **Shraddha Gupta Versus State of Uttar Pradesh and others, 2022 SCC OnLine SC 514**, wherein the Apex Court had an occasion to consider as to whether prosecution under the Gangster Act can be initiated against a person even in case of

single offence/FIR/charge sheet for any of the anti-social activities mentioned in Section 2(b) of the Gangster Act. The relevant portion of the order reads thus:

"On a fair reading of the definitions of 'Gang' contained in Section 2(b) and 'Gangster' contained in Section 2(c) of the Gangsters Act, a 'Gangster' means a member or leader or organiser of a gang including any person who abets or assists in the activities of a gang enumerated in clause (b) of Section 2, who either acting singly or collectively commits and indulges in any of the anti-social activities mentioned in Section 2(b) can be said to have committed the offence under the Gangsters Act and can be prosecuted and punished for the offence under the Gangsters Act. There is no specific provision under the Gangsters Act, 1986 like the specific provisions under the Maharashtra Control of Organized Crime Act, 1999 and the Gujarat Control of Terrorism and Organized Crime Act, 2015 that while prosecuting an accused under the Gangsters Act, there shall be more than one offence or the FIR/charge sheet. As per the settled position of law, the provisions of the statute are to be read and considered as it is. Therefore, considering the provisions under the Gangsters Act, 1986 as they are, even in case of a single offence/FIR/charge sheet, if it is found that the accused is a member of a 'Gang' and has indulged in any of the anti-social activities mentioned in Section 2(b) of the Gangsters Act...Therefore, so far as the Gangsters Act, 1986 is concerned, there can be prosecution against a person even in case of a single offence/FIR/charge sheet for any of the anti-social activities mentioned in Section 2(b) of the Act provided such an anti-social activity is by violence, or threat or show of violence, or intimidation, or coercion or otherwise with the object of disturbing public order or of gaining any undue temporal, pecuniary, material or other advantage for himself or any other person."

Considering the facts and circumstances as well as the judgments cited above, we are also of the opinion that even on the basis of solitary case the provisions of Gangster Act can be imposed and, as such , we are not inclined to interfere in the matter.

The writ petition is **dismissed** leaving it open for the petitioners to apply before the competent court for anticipatory bail/bail as permissible under law and in accordance with law.

Order Date :- 20.11.2023

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