

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 4131 of 2023

Petitioner :- Avesh

Respondent :- State Of U.P. Thru. Prin. Secy. Home, U.P. Govt. Lko. And Others

Counsel for Petitioner :- Mohammad Ahmad

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

Hon'ble Umesh Chandra Sharma,J.

1. Heard Sri Mohammad Ahmad, learned counsel for the petitioner and Smt Ranjana Srivastava, learned A.G.A. for the State-opposite party Nos. 1 to 3.

2. This petition has been filed with the following relief(s):

"(i) Issue a writ, order or direction in the nature of Certiorari thereby quashing the impugned First Information Report No. 0110/2021, under Sections 498-A, 452, 323 and 506 I.P.C. and Section 3/4 Dowry Prohibition Act, 1961, Police Station Kotwali Rudauli, District Ayodhya, contained as Annexure No.1 to this writ petition, so far as it relates to the petitioner.

(ii) writ, order or direction in the nature of Mandamus be issued commanding the opp. parties not to arrest the petitioner in pursuance of the impugned First Information report No. 0110/2021, under Sections 498-A, 452, 323 and 506 I.P.C. and under Section 3/4 Dowry Prohibition Act, 1961 at Police Station Kotwali Rudauli, District Ayodhya, contained as Annexure No. 1 to this writ petition, so far as it relates to the petitioner."

3. Learned counsel for the petitioner submits that the petitioner (Avesh) is the brother-in-law of the respondent No.4 and the real brother of the co-accused Faisal. The respondent No.4 is the wife of Faisal.

4. Learned counsel for the petitioner further submits that the entire allegation as levelled in the F.I.R. is false and fabricated. The petitioner has no concern regarding the allegation as levelled against the petitioner and in the F.I.R. general allegation has been levelled against all the named accused persons. He further submits that the petitioner was working at Quater, U.A.E. and recently he came to India on 19.05.2023 and after just two days i.e. on 21.05.2023, the present F.I.R. has been lodged.

5. Learned counsel for the petitioner submits that the petitioner is brother-in-law of the respondent No.4 and the real brother of the co-accused Faisal and Faisal approached before this Court by filing Criminal Misc.Writ Petition NO. 930 of 2023: Faisal Vs. State of U.P. and was granted interim protection by this Court vide order dated 27.02.2023 and learned counsel for the petitioner has relied upon the judgment of Hon'ble Apex Court in the case of **Geeta Mehrotra Vs. State of U.P., (2012) 10 SCC 741** and submits that the applicant is also entitled to get the same benefit, as observed by Hon'ble Apex Court in the aforesaid judgment, as he is brother-in-law of the respondent No.4 and the real brother of the co-accused Faisal.

6. Learned A.G.A. did not dispute the argument as advanced by learned counsel for the petitioner.

7. After considering the arguments as advanced by the learned counsel for the parties and after perusal of the record, this court finds that the petitioner is brother-in-law of the respondent No.4 and the real brother of the co-accused Faisal, who was already granted interim protection by this Court vide order dated 27.02.2023. Thus in view of the judgment of Hon'ble Apex Court in the case of **Geeta Mehrotra Vs. State of U.P., (2012) 10 SCC 741**, **the petitioner has made out a case for interim protection.**

8. Accordingly, it is directed that till the submission of the report under Section 173(2) Cr.P.C., the petitioner-Avesh shall not be arrested in the aforesaid case. The petitioner is directed to cooperate in the investigation.

9. With the above observations/directions, the writ petition is finally **disposed of.**

Order Date :- 8.6.2023

Arvind