

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 4837 of 2023

Petitioner :- Ajay Rawat

Respondent :- State Of U.P. Thru. Prin. Secy. Home, Lucknow And Another

Counsel for Petitioner :- Vishal Nigam, Sushil Kumar Misra

Counsel for Respondent :- G.A.

Hon'ble Dinesh Kumar Singh, J.

Hon'ble Syed Qamar Hasan Rizvi, J.

1. Heard Shri Sushil Kumar Misra, learned counsel for the petitioner and Shri U.C. Verma, learned A.G.A. appearing for the State-respondents.

2. The present petition under Article 226 of the Constitution of India has been filed seeking writ of mandamus commanding respondent No.2 that the petitioner should not be harassed/arrested without there being any evidence against him for commission of offence.

3. An F.I.R. came to be registered as F.I.R. No.137 of 2023 under Section 394 I.P.C., Police Station-Hasanganj, District-Unnao on 18.05.2023 against unknown persons. The allegations in the F.I.R. are that on 17.05.2023 when the complainant was coming back to his house after dropping his sister-in-law (Bhabhi), two persons near a culvert at Unchahar stopped him and assaulted him with Danda and snatched his Super Splendor motorcycle bearing No.UP 32 KT 4782, they also snatched his mobile phone.

4. Learned Counsel for the petitioner submits that the petitioner was not named in the F.I.R. and the F.I.R. was registered against two unknown persons but the police is harassing the petitioner and he apprehends his arrest. He therefore, submits that the petitioner should be given protection and he should not be arrested.

5. On the other hand, learned A.G.A. opposing the prayer made on behalf of the petitioner submits that F.I.R. was registered against two unknown persons but during the course of investigation, the role of the petitioner has also come. He further submits that the petitioner is not cooperating in the investigation and the offences for which F.I.R. has been registered entails punishment up to ten years, therefore there is no ground to interfere with the on going investigation.

6. We have considered the submissions made on behalf of the parties and perused the record.

7. It is not necessary that every accused should be named in the F.I.R., the role of other persons could also be found in the commission of offence during the course of investigation. Merely on the basis that only two persons have been named in the F.I.R. it cannot be said that the petitioner was not involved in the commission of offence, if any credible evidence has come against the petitioner during the course of investigation.

8. Thus, we do not find any ground to interfere in the ongoing investigation.

9. In view thereof, the present petition is hereby **dismissed**. However, if the petitioner is apprehending his arrest, he may avail alternate remedy as may be advised to him.

(Syed Qamar Hasan Rizvi, J.) (Dinesh Kumar Singh, J.)

Order Date :- 22.6.2023

Piyush/-