

Court No. - 28

Case :- APPLICATION U/S 482 No. - 9132 of 2023

Applicant :- Ram Kripal And Another

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko. And 4 Others

Counsel for Applicant :- Vinod Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Shree Prakash Singh,J.

Counter affidavit filed to State is taken on record

Heard Sri Vinod Kumar Pandey, learned counsel for the applicant, Sri Aniruddha Kumar Singh, learned AGA for the State and perused the material placed on record.

The instant application has been filed with a prayer to quash the impugned order dated 21.7.2023 passed by the Additional Sessions Judge/Special Judge, Pocso Act, Court No.12, Sultanpur in Criminal Misc. Case No. 360 of 2023 "State Versus Naseer and others" arising out of Session Trial No. 477 of 2018 "State Versus Naseer' Case Crime No. 206 of 2018 Under Sections 363/366 I.P.C. and Section 16/17 Protection of Children from Sexual Offences Act, 2012 (Pocso Act) Police Station-Sangrampur, District-Amethi.

The learned counsel appearing for the applicant contends that on 30.08.2018, a First Information Report was lodged, wherein, the accused persons were named and after thorough investigation chargesheet was filed. He added that the present applicants furnished the bail bond while the accused persons were granted bail and later on under some unavoidable circumstances the accused persons could not appear before the trial court and therefore, initiating the proceeding under section 446 of CrPC, the bail bonds were forfeited. He added that later on the applicants produced the accused persons before the trial Court concerned and they are under judicial custody. He added that the application was moved by the applicants for release of the bail bonds and sureties and the same was dismissed on 21.07.2023. He argued that the amount which was deposited by the applicant while mortgaging their land before the trial court concerned may be released as the applicants are poor farmers and their livelihood is depended upon the land.

Therefore, submission is that the order dated 21.07.2023 may

be set-aside and the trial court may be directed to release the amount so that they could get released their land in favour of them.

On the other hand, the learned counsel appearing for the State has opposed the contention of the learned counsel for the applicants on merits, but he has no objection if the accused persons have been produced by the applicants before the trial court concerned.

Considering the submission of the learned counsel for the parties, it emerges that the applicants furnished bail bonds while submitting the papers of the land before the trial court concerned in the bail granted to the accused persons in Case Crime No. 206 of 2018. It has been stated on record that the accused persons have already been produced by the applicants before the trial court concerned and they were sent to jail and thereafter, they moved the application for release of their amount deposited which were before the trial court concerned but the same was dismissed vide order dated 21.07.2023 and being aggrieved this application is filed.

When this Court examined the fact, it is apparent that the accused persons in Case Crime No. 206 of 2018 has already been produced before the trial court and they have been sent to jail and now the amount which has been deposited by the applicant is still with the trial court and the present applicants being poor farmers are suffering hard.

In view of the aforesaid submission and discussions, the order dated 21.07.2023 is hereby set-aside.

Matter is remitted back to the trial court concerned to take a fresh decision so as to release the amount which has been fortified by the trial court concerned.

With the aforesaid observations the instant application is hereby **allowed**.

Order Date :- 10.10.2023

Anurag