

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 7457 of 2023

Petitioner :- Vineet Kumar

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

Counsel for Petitioner :- Parmanand Sharma

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

1. Heard learned counsel for the petitioner, learned A.G.A., Sri Shivendra Shivam Singh Rathore, Advocate, who has filed power on behalf of the respondent no.5 and Sri Anurag Verma, Advocate, who has filed power on behalf of the respondent no.6.

2. Supplementary affidavit filed today by learned counsel for the petitioner is taken on record.

3. It has been informed by learned counsel for the petitioner that the preliminary fact finding enquiry with regard to the loss of bags of grain stored in warehouse is still going on. On 14.02.2008, the General Manager (Stocks) had mentioned that no recovery of the storage and transit losses should be effected without the theft/ pilferage being proved. No punishment could also be imposed. The petitioner had challenged the order dated 25.08.2022 passed by the Managing Director of the U.P. State Ware Housing Corporation by which he has been placed under suspension during the course of enquiry and this Court in Writ-A No.4433 of 2023 had stayed the suspension order. After staying of suspension order by this Court on 31.05.2023, attempts have been made to arrest the petitioner in pursuance of the impugned F.I.R. dated 19.10.2022. The petitioner had also file an Anticipatory Bail Application, which has been rejected.

4. It has also been submitted that the loss of stock has not yet been completely verified, therefore, no liability can be fixed upon the petitioner.

5. This Court has perused the impugned F.I.R. and

also heard the counsel appearing for newly impleaded respondent nos.5 and 6. This Court being bound by the law as settled by Hon'ble Supreme Court in the case of *Neeharika Infrastructure (P) Ltd. Vs. State of Maharashtra*, (2021) 19 SCC 401 and in *State Vs. M. Maridoss and another*, (2023) 4 SCC 338, as has been cited by Sri Anurag Verma, learned counsel for the respondent no.6, finds that the jurisdiction which this Court exercises under Article 226 of the Constitution of India is hedged by certain exceptions, which have been mentioned by the Supreme Court in its order passed in *Neeharika Infrastructure (P) Ltd.* (supra).

6. After having examined the submissions advanced by learned counsel for the parties and perused the impugned F.I.R., we are of the opinion that the impugned F.I.R. discloses cognizable offence by the petitioner, hence, no interference is called for by this Court in its extraordinary power under Article 226 of the Constitution of India for quashing of the F.I.R. or for grant of any interim relief to the petitioner and accordingly, the present writ petition is ***dismissed***.

Order Date :- 1.11.2023

Rahul