

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 7851 of 2023

Petitioner :- Umesh Kumar Vishwakarma

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

Counsel for Petitioner :- Kartik Rawat, Jaibind Singh Rathour, Yogendra Pratap Singh

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Narendra Kumar Johari, J.

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

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

"issue a writ order of direction in the nature of Certiorari thereby quashing impugned FIR dated 05-09-2023 got registered by the respondent no.4 as Case Crime No.460 of 2023 U/S 336 I.P.C. and 30 Arms Act registered at Police Station Madiyaon District Lucknow as contained in Annexure No.1 to this writ petition."

It has been submitted by learned counsel for the petitioner that the petitioner has been falsely implicated by the Police. Initially the Police prepared a challani report under Section 151/107/116 Cr.P.C. at around 12 O'clock in the noon and presented the accused before the A.C.P. Aliganj. Accused was set on bail, but on the other hand Police has lodged the impugned F.I.R. alleging that the petitioner has committed the offence as mentioned therein. The petitioner has again been arrested at 11:00 O'clock in the night. The story set up in the impugned F.I.R. is quite improbable and, therefore, this Court should interfere in the matter.

This Court finds that all the Sections invoked against the petitioner carry a punishment upto seven years and, therefore, the petitioner should in normal course be entitled for the benefit of the judgement rendered by Hon'ble Supreme Court in the case of *Arnesh Kumar v. State of Bihar, (2014)*

8 SCC 273.

However, learned A.G.A. has produced before this Court instructions dated 09.10.2023 sent by Sub Inspector, Police Station Madiyaon, District Lucknow, wherein it has been stated that it is incorrect to say that petitioner was initially challaned under Sections 151/107/116 of the Cr.P.C. and was bailed out. The fact of the matter is that initially the petitioner had tried to commit an offence by using a licensed rifle. The Police were active enough to prevent any serious injuries and they sealed the rifle as well as live cartridge recovered from the petitioner and took him to the Police Station. The petitioner was however let off at around 11:30 a.m. in the morning on 05.09.2023 on personal bond. After reaching home, petitioner again started fighting for which information was received at around 12:00 noon on the same day i.e. on 05.09.2023. The Police tried to prevent any untoward incident. The petitioner also tried to threaten the Police personnel. The Police thereafter challaned him under Section 151/107/116 Cr.P.C. on the same day and entry was made at sl.no.31 of the G.D. The petitioner is not being harassed in any manner. This petition has been filed only to create pressure upon the Police personnel and to prevent them from doing their duty.

This petition is ***disposed of*** with a direction to the petitioner to cooperate in the investigation in F.I.R. No.460 of 2023 registered at P.S. Madiyaon, District Lucknow, and get his statement recorded by the Investigating Officer.

Order Date :- 11.10.2023
Rahul