

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 7892 of 2023

Petitioner :- Sukhpati @ Suppat

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

Counsel for Petitioner :- Arun Kumar Tripathi

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 and perused the record.

Under challenge in this petition is the First Information Report dated 14.6.2023, lodged at F.I.R./Case Crime No.171 of 2023, under Sections 380, 457 IPC, at PS. -Raniganj, District -Pratapgarh.

Learned counsel for the petitioners confines his prayer for issuing direction to the police authorities to follow the mandate of Section 41A, Cr.PC. for the reason that the offences mentioned in the impugned First Information Report carry the sentence of upto 7 years of imprisonment, therefore, the petitioner is entitled to get the benefit of directions issued by the Hon'ble Supreme Court in the case of ***Arnesh Kumar Vs. State of Bihar, reported in (2014) 8 SCC 273.***

This Court perused the Section 457 I.P.c., which is quoted hereinbelow:-

457. Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.—Whoever commits lurking house-trespass by night, or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

This writ petition is **dismissed** on the ground of making wrong contention/pleadings before the Court.

Order Date :- 11.10.2023

Anuj Singh