

Court No. - 12

Case :- APPLICATION U/S 482 No. - 10155 of 2023

Applicant :- Babuddin (As Alleged In Charge Sheet Bauuddin)

Opposite Party :- State Of U.P Thru. Prin. Secy. Hoe Civil Sectr. Lko. And Another

Counsel for Applicant :- Syed Mohd. Munis Jafari

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

2. Present application has been moved by the applicant for quashing impugned order dated 02.08.2023 passed by Additional District & Sessions Judge/F.T.C. (14th Finance Commission) Hardoi in discharge application no.11B Sessions Case No.1498 of 2022, Crime No.0335 of 2017, U/S 307, 419, 420, 467, 468, 471 I.P.C. P.S. Pali, District- Hardoi.

3. Learned counsel for the applicant submitted that the applicant has been falsely implicated in this case on the basis of concocted evidences that the applicant opened fire on the police party, thereafter, charge-sheet was filed for the offence under Section 307 I.P.C. and summoning order was passed. He further submitted that the charge-sheet as well as summoning order were challenged before this Court by way of Application U/S 482 No.6677/2019 which was disposed of on 18.09.2019 with liberty to apply for bail, thereafter, applicant appeared before the trial court and he was enlarged on bail, thereafter, he moved discharge application but the same was also rejected by the trial court with the observation that offence under Section 307, 419, 420, 467, 468 and 471 I.P.C. are made out. He further submitted that not even a single evidence, which was collected by the Investigating Officer, is discussed in the impugned order for the offences under Sections 307, 419, 420, 467, 468, and 471 I.P.C., therefore, kind indulgence of this Court is necessary.

4. Learned A.G.A. opposed the prayer of applicant and submitted that adequate opportunity will be provided to the applicant at the appropriate stage. He further submitted that one vehicle was also recovered from co-accused, namely, Amar Singh and Manohar Gupta, in which, number plate was tampered with but he does not dispute this fact that charge sheet was filed against the applicant for the offence under Section

307 I.P.C. and the charge sheet was filed against the other co-accused persons for the offence under Sections 419, 420, 467, 468, 471 I.P.C.

5. Considering the submissions of learned counsel for the parties, going through the contents of application, as well as other relevant documents, as it is evident from the record that the charge-sheet was filed against the co-accused persons Amar Singh and Manohar Gupta under Sections 419, 420, 467, 468, 471 I.P.C. on 13.10.2017, thereafter, supplementary charge-sheet was filed against the applicant on 29.12.2017 for the offence under Sections 307, 419, 420, 467, 468, 471 I.P.C. on the basis of confessional statement of the aforesaid co-accused persons but all these facts were not considered by the trial court at the time of passing the impugned order, therefore, impugned order dated 02.08.2023 passed by Additional District & Sessions Judge/F.T.C. (14th Finance Commission) Hardoi is **set aside** with liberty to trial court to pass a fresh order in accordance with law.

6. Accordingly, the application is hereby **allowed**.

Order Date :- 26.10.2023

V. Sinha