

Court No. - 12

Case :- APPLICATION U/S 482 No. - 10266 of 2023

Applicant :- Sanjay Rai

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.
And 2 Others

Counsel for Applicant :- Satya Narain Mishra, Surya Narayan Singh

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh, J.

1. Heard learned counsel for the applicant as well as learned A.G.A. for the State.

2. The present application has been filed for quashing the charge-sheet arising out of Crime No. 252 of 1993, Case No. 435 of 1995 U/s 307 I.P.C., Police Station- Gazipur Indira Nagar, Lucknow as well as summoning order dated 17.02.1994.

3. Learned counsel for the applicant submits that trial of the case in question is going on since 1993. He draws attention of this Court on the examination-in-chief of the Investigating Officer- Devendra Singh Gangwar as PW-5 on 18.08.2015, thereafter, his cross-examination was also conducted, in his cross examination, he stated that case diary is not available on record, therefore, substantial justice would not be available to the applicant. It is further submitted that applicant has already been declared as juvenile and all the records have already been sent to learned trial court on 04.04.2023 but at the time of sending the paper book, the case diary was not available and applicant is being victimized due to pendency of the trial. It is, thus, submitted that the impugned proceeding is liable to be quashed.

4. Learned A.G.A. opposes the prayer of applicant and submits that after framing of charge before learned trial court in S.T. No. 435 of 1995, almost all the evidences have already been examined and after declaration of the juvenility of the applicant, the trial has been transferred to the Juvenile Justice Board; the same is at the final stage and the statement U/s 313 Cr.P.C. has already been recorded, therefore, the proceeding cannot be quashed.

5. Considering the submissions of learned counsel for the applicant, learned A.G.A. and going through the contents of

application as well as other relevant documents; it is evident that after filing of charge-sheet, the case was committed to the Court of Sessions Judge and it was registered as S.T. No. 435 of 1995; the trial was going on and almost all the witnesses have already been examined. Thereafter, the claim of juvenility was requested and it was decided that at the time of incident, applicant was juvenile. In such circumstances, the proceedings cannot be quashed.

6. With the above observations, this Court is of the view that the present application U/s 482 Cr.P.C. is misconceived and accordingly, stands **dismissed**.

7. Juvenile Justice Board is directed to conclude the trial expeditiously in accordance with law without giving any unnecessary adjournment to either of the parties.

8. Office is directed to communicate this order to concerned authority.

Order Date :- 28.11.2023

Arpan