

Court No. - 12

Case :- APPLICATION U/S 482 No. - 10606 of 2023

Applicant :- Ashok Kumar Yadav And Another

Opposite Party :- State Of U..P Thru. Prin. Secy. Deptt. Home Lko. And Another

Counsel for Applicant :- Vijay Kumar,Akhilesh Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the material brought on record.
2. This application has been filed for quashing the order dated 10.07.2023 passed in Criminal Case No. 2278 of 2019, (State Vs. Ashok Kumar Yadav & Ors.) arising out of F.I.R. No. 666 of 2019, under Sections 323, 452, 504, 506 I.P.C., P.S. Kotwali Nagar, District Pratapgarh.
3. Learned counsel for the applicants submits that the applicants have falsely been implicated in the present case. It is further submitted that the alleged offences are punishable upto seven years and the applicants were enlarged on interim bail by the court below. It is also submitted that different dates were fixed by the court below for disposal of the regular bail application and on every date, the applicants appeared before the court below. However, they could not appear before the court below on 10.07.2023 and though the information was given by their counsel, but without considering the same, impugned non-bailable warrant dated 10.07.2023 was issued on the same day.

Learned counsel for the applicants vehemently submits that it is well settled by the Hon'ble Supreme Court in the case of **Satendra Kumar Antil Vs. Central Bureau of Investigation and another (Special Leave to Appeal (Crl.) No.5191 of 2021** that in the offences, in which, the punishment prescribed is upto 7 years, the accused person

may not be arrested in ordinary circumstances, in case, he is not taken into custody during the course of investigation. Learned counsel for the applicants ensures that the applicants shall appear before the court below on every dates in future. It is, thus, submitted that the indulgence of this Court is necessary.

4. Learned A.G.A. opposes the prayer of the applicants and submits that when the matter was listed on 10.07.2023, the applicants did not appear before the court below, due to which, the non-bailable warrant was issued. However, he does not dispute the fact that the applicants were granted interim bail by the court below and on every occasion, they appeared before the court.

5. Considering the arguments advanced by the learned counsel for the applicants, learned A.G.A. and going through the contents of the application as well as other relevant documents, it is evident that the alleged offences are punishable upto 7 years. It is further evident that the applicants were enlarged by the court below on interim bail. However, the applicants could not appear before the court below on 10.07.2023, on which date, the impugned non-bailable warrant was issued. It is well settled by the Hon'ble Apex Court in the case of **Satendra Kumar Antil** (supra) that the custody is not needed in the offences punishable upto 7 years.

6. In view of above facts and discussions, the order dated 10.07.2023 is hereby set aside. Application stands allowed.

7. However, the applicants are directed to appear before the court below on every date, which shall be fixed by the court below. The court below is also directed to decide the regular bail application, if possible, on the next date in the light of the law laid down by the Hon'ble Apex Court in the case of **Satendra Kumar Antil** (supra).

Order Date :- 31.10.2023

VKS