

Court No. - 28

Case :- APPLICATION U/S 482 No. - 10731 of 2023

Applicant :- Smt. Urmila Devi

Opposite Party :- State Of U.P. Thru. Secy. Ministry Of Home Affairs
Lko. And Another

Counsel for Applicant :- Sandeep Kumar Rawat, Pramod Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Shree Prakash Singh, J.

Heard learned counsel for the applicant, Sri Sushil Kumar Pandey, learned A.G.A. for the State and perused the record.

Instant application under section 482 Cr.P.C. has been filed with prayer to quash the chargesheet no. 01 dated 01-11-2020 submitted by the police of Police Station-Itaunja, District-Lucknow in Crime No. 269 under section 3/7 of the E.C. Act and the proceedings of the criminal case no. 15235 of 2021, pending before the court of A.C.J.M.-Ist, Lucknow.

Factual matrix of the case is that on sudden inspection of the fair price shop of the applicant, 23 bags of wheat and 13 bags of rice, has been found deficient and thereafter, an F.I.R. was lodged. The investigation was done and chargesheet was filed.

Counsel for the applicant contends that the chargehseet has been filed under section 3/7 of the Essential Commodities Act, 1955, whereas the case of the present applicant is squarely covered with the ratio of the Judgment rendered by this court in **Criminal Misc.Anticipatory Bail Application under section 438 Cr.P.C. bearing no. 4344 of 2021,(Daudayal Sharma Vs State of U.P. and 2 Others)** and further in case of **Lakshman Prasad and Another Vs. State of U.P., Criminal Misc. Anticipatory Bail Application under section 438 Cr.P.C. No. 538 of 2021.**

During course of his arguments, he has placed reliance on para nos. 4 & 5 of the case of **Daudayal Sharma Vs State of U.P. and 2**

Others (Supra), which are extracated hereinunder :-

4. In view of above legal propositions the offence is not non-bailable. Cognizance of such an offence can be taken but in the absence of any other provisions showing the offence to be non-bailable, the offence would continue to be bailable in view of Schedule-II to the Code of the Criminal Procedure, 1973.

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The above legal position is not clear to most of the Investigating Officers and the courts below and therefore, the bail application of the accused persons in such cases are rejected by the Magistrate and the special courts treating the offences to be non-bailable. Hence, it would be appropriate to protect the applicant's interest for limited period."

Considering the submissions of learned counsel for the parties and after perusal of the material placed on record, it is evident that the chargesheet has been filed against the present applicant under section 3/7 of the Essential Commodities Act, 1955. The coordinate Bench of this court has passed the order in CrI.Misc. Anticipatory Bail Application under section 438 Cr.P.C. bearing no. 4344 of 2021, wherein it has been held that offence under section 3/7 of the Essential Commodities Act, is not non-bailable and further held that cognizance of such an offence can be taken, but, in absence of any other provisions showing the offence to be non-bailable, the offence would continue to be bailable in view of the Scheduled-II to the Code of Criminal Procedure, 1973. This court has further noticed the fact that during the course of the investigation, the present applicant was not arrested and thus his case is also covered with the ratio of the Judgment of the Apex Court in the case of **Siddharth Vs. State of U.P., 2021 SCC Online SC, 615.**

At this stage, learned counsel for the applicant submits that he does not want to press the application and seeks liberty to file bail application before the learned trial court which may be decided in view of law laid by Hon'ble Supreme Court's judgment in the case of **Satender Kumar Antil versus Central Bureau of Investigation**

and another (2022)10 SCC 51.

Learned A.G.A. has no objection to the prayer made by learned counsel for the applicant.

On due consideration to the submissions of learned counsel for the parties', it is provided that in case, the applicant appears before the trial court within two weeks from today and files bail application, the same shall be decided expeditiously in view of law laid down in the case of **Satender Kumar Antil (supra)** and in the light of the observations made above.

The application is **disposed of** accordingly.

Order Date :- 2.11.2023

AKS