

Court No. - 12

Case :- APPLICATION U/S 482 No. - 10970 of 2023

Applicant :- Nikhil Kumar Srivastava

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

Counsel for Applicant :- Krishna Lal Yadav, Purshottam
Chaurasia, Sushil Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh, J.

1. Heard learned counsel for the applicant, learned AGA and perused the record.

2. This is an application with following prayer:-

"Set aside the entire criminal proceeding of Criminal Case No. 13991 of 2020 "Ajeet Kumar Vs. Nikhil Kumar Srivastava" under section-138 Negotiable Instrument Act, Police Station- Aminabad, District-Lucknow pending in the court of learned Additional Court No.9 Lucknow alongwith Non-Bailable Warrant order dated 11.11.2022 and proceeding of Criminal Case No. 13991 of 2020 "Ajeet Kumar Vs. Nikhil Kumar Srivastava" under section-138 Negotiable Instrument Act, Police Station-Aminabad, District- Lucknow pending in the court of learned Additional Court No.9 Lucknow alongwith Non-Bailable Warrant order dated 11.11.2022."

3. Learned counsel for the applicant submitted that applicant has been falsely implicated in the present case. It is further submitted by the learned counsel for the applicant that the matter was fixed on 10.05.2022, on which date the applicant could not appear before the Court below due to illness, due to which impugned Non Bailable Warrant was issued against the applicant. It is next submitted that the recall application has already been moved which is still pending before the court below, therefore kind indulgence of this Court is necessary.

4. Learned AGA opposed the prayer of the applicant but has no objection in case the recall application moved by the applicant is decided.

5. Considering submissions of learned counsel for the applicant and learned AGA and going through the contents of application as well as other relevant documents, it is evident that due to illness applicant could not appear before the trial Court. It is also evident that a recall application has already been moved in this regard.

6. In view of the above facts and circumstances trial Court is directed to decide the recall application expeditiously, within a period of six weeks.

7. For a period of six weeks or till the decision of the recall application, whichever is earlier, the effect and operation of the impugned N.B.W. shall be kept in abeyance.

8. With the aforesaid this petition stands **disposed of**.

Order Date :- 7.11.2023

Vipul