

Court No. - 28

Case :- APPLICATION U/S 482 No. - 11247 of 2023

Applicant :- Jamuna Prasad Dubey

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Lko. And 3 Others

Counsel for Applicant :- Alok Kr. Misra, Surjeet Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Shree Prakash Singh, J.

1. Heard Shri Alok Kumar Misra, learned counsel for the applicant, learned AGA for the State and perused the material on record.
2. Instant application under Section 482 has been filed to quash the impugned order dated 26.10.2023 passed by opposite party No.2 in Case No. 403/2023 (State Vs. Jamuna Prasad Dubey) under section 3/4 of Uttar Pradesh Control of Gunda Act, 1970.
3. Learned counsel appearing for the applicant submits that on 06.04.2022, the police authorities submitted the report against the applicant for invoking the provisions of Gunda Act, 1970 and consequently, on 06.04.2022, the opposite party no.2 passed the order for externment under the aforesaid provisions. Against the order dated 06.04.2022, the applicant filed an appeal and, thereafter, the applicant was sent to jail and as soon as he was released on bail, again notice was issued and the order dated 26.10.2023 was passed. He added that without giving the proper opportunity of hearing as well as considering the material evidences, the impugned order has been passed.
4. After the aforesaid argument, learned counsel for applicant submits that the applicant may be given liberty to move appeal under Section 19, against the order dated 26.10.2023, before the appellate authority and the appellate authority may be directed to decide the same within stipulated period of time.
5. Learned counsel for State has no objections for the contentions aforesaid.
6. In view of the aforesaid submissions, the applicant is given

liberty to move an appeal before the trial Court concerned within a period of 15 days and if such an appeal is filed, the trial Court is directed to decide the same within further period of 30 days in accordance with law. Till the decision of appeal, the criminal proceedings in furtherance to the order dated 26.10.2023 shall remain stayed.

7. It is clarified that it would be open for the authorities to proceed further after the appeal is decided.

8. With the aforesaid liberty, instant application is ***disposed of***.

Order Date :- 9.11.2023

-Amit K-