

Court No. - 12

Case :- APPLICATION U/S 482 No. - 11653 of 2023

Applicant :- Ravindra Kumar Yadav

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

Counsel for Applicant :- Mohammad Ayub

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Vakalatnama filed by Shri Dharmendra Gupta, Advocate on behalf of respondent no. 2 is taken on record.
2. Heard learned counsel for the applicant, learned A.G.A. for the State and learned counsel appearing for respondent no. 2.
3. This application has been filed for quashing the order dated 18.11.2023 passed by Additional District & Sessions Judge, Court No. 3, Lucknow in Criminal Appeal No. 165 of 2021, (Ravindra Kumar Yadav Vs. Sanchetana Financial Services).
4. Learned counsel for the applicant submits that the trial court failed to appreciate the evidence in the correct perspective and passed the conviction order, against which, Criminal Appeal No. 165 of 2021 was filed by the applicant. It is further submitted that vide order dated 08.11.2021, while staying the operation of the order of the trial court and enlarging him on bail, a direction was issued to the applicant to deposit 20% of the awarded amount, i.e., Rs.9 lac within fifteen days from the date of the order. It was also observed by the appellate court in the said order that, in case, the aforesaid amount is not deposited within time, the bail granted to the applicant shall automatically be cancelled. Submission of the learned counsel for the applicant is that since money could not be arranged within time, information of which was also given to the appellate court. It is vehemently submitted that the

amount of Rs.9 lac was deposited by the applicant on 13.12.2021. However, without considering all these facts, by means of the impugned order, the appellate court cancelled the bail of the applicant and issued non-bailable warrant against him. Learned counsel for the applicant submits that he is ready to argue the appeal, which is listed tomorrow, i.e., on 30.11.2023. It is, thus, submitted that the indulgence of this Court is necessary.

5. Learned A.G.A. as well as learned counsel for respondent no. 2 vehemently oppose the prayer of the applicant. Learned counsel for respondent no. 2 submits that applicant is avoiding the proceedings of appellate court and, therefore, under compelling circumstances, the impugned order was passed by the appellate court. However, he has no objection, in case, he is ready to argue the appeal.

6. Considering the arguments advanced by the learned counsel for the applicant, learned A.G.A., learned counsel for respondent no. 2 and going through the contents of the application, impugned order as well as other relevant documents, it is evident that Rs.9 lac was deposited by the applicant before the trial court on 13.12.2021, which is beyond the time limit of fifteen days provided by the appellate court. It is also evident that the appellate court passed the impugned order on the ground of non-compliance of the order dated 08.11.2021.

7. However, taking into consideration the humanitarian ground that the money could not be arranged by the applicant within time and the same has been deposited on 13.12.2021, this Court is of the view that the impugned order dated 18.11.2023 is liable to be set aside and is hereby set aside.

8. The application stands allowed.

9. Applicant is directed to submit fresh personal bond of Rs.50,000/- before this trial court within a week from today. Appellate court is also directed to decide the appeal within

one month from today.

It is made clear that, in case, applicant fails to cooperate in the appeal, the same shall be decided by the appellate court on merit, ex parte.

Order Date :- 29.11.2023

VKS