



2024:UHC:9277

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No. 906 of 2024

06 December, 2024

Rahis Ahmed

.....Petitioner

Versus

State Of Uttarakhand

.....Respondent

Presence:-

Ms. Aishwarya Thapliyal counsel for the petitioner.

Mr. G.S. Sandhu, Additional Advocate General along with Mr. Deepak Bhardwaj, Brief Holder for the State.

Hon'ble Vivek Bharti Sharma, J. (Oral)

Present petition is filed by the petitioner to quash the impugned orders dated 06.01.2022 to 17.10.2024 passed in Criminal Case No. 3032 of 2020 under Sections 304A & 427 I.P.C. pending in the court learned Judicial Magistrate/1st Additional Civil Judge (Junior Division) Roorkee, District Haridwar, whereby the court below issued non-bailable warrant against the petitioner/accused.

2. Heard.

3. Counsel for the petitioner/accused would submit that an F.I.R. was registered against unknown person regarding the alleged accident in which one Shivpal and his friend died; that, after completion of investigation, the Investigating Officer submitted the charge sheet against the petitioner/accused; that, the court below vide order dated 24.08.2020 took cognizance of the matter and registered the criminal case as Criminal Case No.



3032 of 2020; that, the petitioner/accused is on bail.

4. Counsel for the petitioner would further submit that the petitioner/accused is a layman and after obtaining bail the petitioner/accused somehow could not remain in touch with his counsel to seek further dates and instructions; that, the petitioner/accused came to know about the issuance of non-bailable warrants only when he contacted his counsel for inquiring about the date of his case before the trial court; that, due to non-appearance of the petitioner on the date fixed before the trial court, the non-bailable warrants were issued against the petitioner/accused, hence, this petition for quashing of the non-bailable warrant is filed.

5. State counsel would vehemently oppose the submission made by counsel for the petitioner and would submit that non-bailable warrants have been issued against the petitioner/accused for the reasons that despite issuance of summons, he did not appear before the trial court.

6. Perused the record in view of the submissions made by counsel for the parties.

7. The present petition is not of a kind which requires invocation of the extraordinary jurisdiction of this court u/s 528 of B.N.S.S as the petitioner/accused has an equally efficacious remedy to approach the trial court for cancellation of non-bailable warrants.

8. The Hon'ble Supreme Court in catena of judgments has held that the power under Section 528 B.N.S.S. cannot be exercised by the High Court



9. Perusal of the record would reveal that the other grounds taken in the petition are matter of evidence, which can be appreciated by the trial court only and not by this Court in its inherent jurisdiction under Section 528 B.N.S.S.

10. In view of this Court, this is not a fit case where the power u/s 528 B.N.S.S. should be exercised, therefore, the petitioner/accused is not entitled to get any relief at this stage, therefore, the instant petition is liable to be dismissed.

11. Accordingly, the present C-528 petition lacks merits and the same is hereby dismissed.

12. No order as to costs.

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